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SECOND EDITION

THE

AGRICULTURAL HOLDINGS (ENGLAND) ACT, 1883.

BY

J. W. JEUDWINE.

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TERLOW & SONS LIMITED, LONDON WALL, LONDON.

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THE

AGRICULTURAL HOLDINGS (ENGLAND) ACT, 1883.

WITH

NOTES AND AN INTRODUCTORY CHAPTER ON THE SUBJECT-MATTER OF THE ACT,

ALSO A

Summary of Procedure,

AND AN

APPENDIX OF FORMS

IN PROCEEDINGS UNDER REFERENCES, IN THE COUNTY COURT, AND BEFORE THE MAGISTRATES, ADAPTED FOR USE UNDER THE ACT.

TOGETHER WITH

Precedents of Lady-day and Michaelmas Agreements.

BY

J. W. JEUDWINE,

Of Lincoln's Inn, Barrister-at-Law.

SECOND EDITION.

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PREFACE TO THE SECOND EDITION.

THE Author has taken the opportunity afforded by a second edition to thoroughly revise the work and to correct the numerous errors which were unavoidable in the previous edition.

The question of substituted compensation has been further considered, and the matter in the book has been increased by further comments on the various clauses of the Act and by additional notes.

An additional precedent has been added (Form 1*) in the form of a short farming agreement, for use where an agreement is prepared in haste, and all the forms have been carefully revised and an index to them added.

The question as to notices to quit, given before January 1st, 1884, has been reconsidered in the notes to sect. 33, and a note has been added pointing out the view which the Court would probably take of such a point. Although this section may give rise to litigation, it is not safe to assume as some writers in the *Times* have recently done, that all notices to quit in Michaelmas tenancies given for September 29th, 1884, are bad, unless given before September 29th, 1883. It seems more probable that a Court of Law would hold the notice good if given at any time before January 1st, 1884.

The Author wishes most strenuously to disclaim the intention imputed to him in a London Journal, namely,

that he had chiefly exerted his ingenuity "in an endeavour to shew landlords how to evade the Act to the greatest possible extent." It is true that in the Introductory Chapter it is shewn how in the Author's opinion the Act may be evaded, but the evading clauses are not incorporated in the precedents, and the object of the comments and clauses criticized was to point out how litigation might be avoided, and not how the benefits of the Act to tenants could be minimized.

The Author is strongly of opinion that the chief advantage of the compulsory clauses of the Act is as a guide in drafting substituted agreements, and that both landlord and tenant will still find it to their advantage to exclude the Act, and especially those parts of it which seem likely to lead to litigation.

That being so, the comments made have naturally been addressed far more to landlords than to tenants, as the latter under the Act have less difficulty in contracting themselves out of it.

J. W. JEUDWINE.

LINCOLN'S INN,

September, 1883.

PREFACE.

NO apology need be made for editing an Act which is professedly compulsory, and which, as must any Act which relates to agriculture, affects the interests of a large part of the community. The present Act seems to be generally accepted as a fair and earnest endeavour to settle vexed questions arising between landlord and tenant, although in the opinion of some tenants it may not have gone far enough, in the opinion of some landlords too far.

The Government showed great fairness and moderation in regulating its discussion, repeatedly refusing to give way to suggestions of either extreme party which would have damaged the principles of the Act, whilst, where principle was not concerned, they willingly accepted any amendments which commended themselves to the views of the Committee.

The only part of the Act as to the working of which any serious difference of opinion arose, was the clause relating to drainage. This, it will be hoped, will not be found to work so unfavourably to the landlord as has been supposed.

The Procedure Clauses are mainly copied from the Act of 1875. To the Author the County Court seems a most unfit tribunal for the trial of appeals from references. County Court Judges, as a rule, know little or nothing

about farming, and on appeal they can but reconsider the decision of the valuers on the evidence of the valuers themselves. An umpire appointed by the Land Commissioners or by the Institute of Surveyors would, in the Author's humble opinion, be a much fairer and probably a cheaper mode of appeal.

The object throughout the work has been to repeat nothing, though in editing an Act of Parliament it is very difficult to avoid repetition.

The procedure is set out in order of time, with frequent cross references to the sections and notes, and the directions how to claim compensation are as simple and as short as it is safe to make them.

The notes, as a rule, contain only the matter arising on the particular wording of the sections, and all general questions on the Act have been considered in the Introductory Chapter.

The forms have been carefully drawn, and much time and labour has been expended on them and on the Precedent of Agreement which form Appendix I. The Precedent has been carefully modelled to meet not only the Act, but the possibility of the tenant failing to give his notices and claiming under custom or agreement. For this reason, and because the agreement applies both to Lady Day and Michaelmas tenancies, it was impossible to draw it shortly.

In settling this Precedent the Author has been much indebted to the practical advice and assistance of friends.

J. W. JEUDWINE.

LINCOLN'S INN.

September, 1883.

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INTRODUCTORY CHAPTER.

THE Act applies only to those holdings which are "either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or in whole or in part cultivated as a market garden," and it does not apply to any holding let to the tenant during his continuance in any office, appointment or employment of the landlord.

To what holdings the Act applies. S. 54.

It applies only to leases and yearly tenancies (sect. 61).

With the exception of the clauses relating to compensation for *unexhausted improvements*, in respect of which it is professedly compulsory, the Act is permissive. Sect. 55 makes void all contracts, agreements, or covenants, whereby a tenant deprives himself of his right to claim compensation under this Act. Great facilities are, however, given for contracting out of the Act by means of agreements to be substituted for compensation under the Act. If it is desired to exclude it altogether, such clauses as those suggested on p. xxiii may be inserted in the agreement, or penal rents may be imposed on the execution of improvements.

Permissive nature of Act.

S. 55.

Ss. 2, 3, 4, 5, 8

The Act alters the law on the following points.—

Matters dealt with by the Act.

(1.) The length of notices to quit.

(2.) The right of a Tenant to fixtures and buildings erected by him.

(3.) The Law and Procedure under a distress.

(4.) The right of a Tenant to have compensation for the unexhausted value of capital laid out upon his holding, called in the Act "compensation for improvements."

Notices to Quit.

Notice to quit under yearly tenancy. Ss. 33, 61.

Before the Act where no agreement or custom regulated the length of notice to be given under a yearly tenancy, *a half-year's notice expiring with a year of the tenancy*, was *by law* necessary to determine it (DOE *v.* DARBY, 1. T. R., 159). The Act now makes "*a year's notice so expiring*" necessary, and permits a landlord and tenant who wish to exclude this section to do so by writing under their hands. In what degree the section affects current tenancies is fully considered in the notes to sect. 33. The section is not to apply to a case where the tenant is bankrupt, or has filed a petition for a composition or for arrangement with his creditors.

Forms 2, 3.

Current tenancies.

Resumption for improvements. S. 41.

The Act also makes provision for the landlord taking possession of part of the holding for certain purposes (specified in sect. 41). In such a case the landlord gives the tenant notice to quit the part that he requires, stating the purpose for which he requires it. The tenant may within 28 days after such notice, if he please, give notice to the landlord that he accepts the landlord's notice as notice to quit the entire holding.

Form 4.

Form 5.

If the tenant, however, accept the landlord's notice for part of the holding, he will be entitled to a proportionate reduction of rent, both in respect of the land comprised in the notice, and in respect of the depreciation in value caused to his holding by the withdrawal of such land from the holding, and he will also be entitled to compensation in respect of any improvements made on such land.

It will probably be found always more convenient

to insert in every agreement clause 28 of Appendix 1, giving the landlord power to resume without any notice being necessary. Appendix 1, Clause 28.

Fixtures.

The Act allows the tenant to remove a fixture, machinery or building, erected after the commencement of the Act, to which he would not be entitled to compensation under the first part of the first schedule to the Act. Fixtures. S. 34.

Before he does so he must give a month's notice in writing of his intention to remove it. The landlord may then elect to purchase it, and if the parties cannot agree as to its value, disputes will be settled by reference as in case of compensation, but without appeal. Form 15. Form 16.

The right of agricultural tenants to remove fixtures erected before the commencement of the Act is very limited, and is governed mainly by sect. 3 of 14-15 Vict., c. 25 (notes to sect. 34 *infra*) which allowed the tenant to remove fixtures with the consent of his landlord. Fixtures erected before Jan. 1st, 1884.

The present section is mainly a re-enactment of sect. 53 of the Agricultural Holdings (England) Act, 1875.

The circumstances under which a tenant may remove fixtures are detailed in sect. 34 of the Act.

Distress.

The Law and Procedure under a distress are materially altered by sects. 44-52 of the Act. Besides important modifications in the law and practice of making distress, sect. 46 provides a new Distress. Ss. 44-52. S. 46.

method of procedure for the decision of the many vexatious little questions which often arise under a distress; namely, a summary trial either in the County Court or before justices with an appeal to Quarter Sessions. This mode is not compulsory, and the tenant may still, if he pleases, replevy or bring his action in the High Court. Clauses 29 and 13A *infra*, if inserted in a farming agreement, may save a costly action in the High Court for illegal distress.

Procedure permissive.

Appendix 1, Clauses 29, 13A.

S. 44.

Sect. 44 limits the landlord's right of distress to one year's rent, but modifies this limitation by a proviso as to rent collected after it becomes legally due.

Present arrears.

The limitation does not at present apply to arrears existing on Jan. 1st, 1884. They are recoverable up to Jan. 1st, 1885, to the same extent as if the Act had not passed; after that date the Act applies to them. Clause 7 of Appendix 1 enabling the landlord to distrain in advance will probably be more often resorted to, and if more than one year's credit is required, the landlord must take a bill of sale over his tenant's effects.

Appendix 1, Clause 7.

S. 45. Privilege from distress.

Sect. 45 gives a conditional privilege from distress to live stock (defined by sect. 61) which are upon the premises by way of agisting, and absolutely protects machinery, and live stock taken in solely for breeding purposes, which are on the premises under a bonâ fide agreement for hire, and are the bonâ fide property of a third person.

S. 47. Set-off against rent in arrear.

Sect. 47 provides for a set-off, as against rent in arrear, of compensation ascertained, not only "under the Act," but under "any custom or contract." See the note to the section. Other changes are the abolition of appraisement, the regulation of charges where the sum distrained for is

Ss. 49, 50, 51, 52.

over £20, a provision for the removal of distrained goods, the extension of time to replevy, and the appointment of bailiffs by the County Court.

Compensation.

Compensation for improvements. Ss. 1-6.

The main object of the Act, more important than all the matters above mentioned, is *to provide compensation for the tenant*, if he be forced to leave his farm before improvements effected by the capital which he has invested in it have been exhausted. The principle on which the tenant's right to compensation is based "is precisely similar to his right to emblements, which right rests on the principle that a farmer is entitled to reap or be paid for the crop which he has sown, but which he is compelled to leave before it grows ripe."

Procedure to assess compensation.

The Act provides a special mode of procedure for the assessment of compensation by valuers, with an appeal to the County Court, which will be found set out below in the Summary of Procedure, p. xxvii.

Improvements executed before Jan. 1st, 1884. S. 2.

The Act only applies to improvements executed before January 1st, 1884: (1) when they have been executed within ten years previous to that date, (2) when the landlord has consented, in writing, to the making of them within one year after that date, (3) when the tenant is not in any other way entitled to compensation in respect of them.

Improvements executed after Jan. 1st, 1884, under tenancies current at that date. S. 5.

The Act does not interfere with contracts of tenancy current on January 1st, 1884, where, under any agreement in writing, or custom, or the Agricultural Holdings Act, 1875, "specific compensation" is pay-

able in respect of improvements executed after that date. Compensation will continue to be payable under such agreement, custom, or Act, until the contract of tenancy becomes one beginning after the Act [as to which see sect. 61]. Where no such specific compensation is provided, the landlord can exclude the Act, as to the improvements in Part III. of the First Schedule, by executing a particular agreement with his tenant, providing "fair and reasonable compensation."

Improvements executed under tenancies beginning after 1st Jan., 1884. S. 61.

Current tenancies from year to year soon become tenancies beginning after the commencement of the Act, but the provisions above mentioned will continue to apply to leases.

S. 1.

(When right to compensation arises.)

The "sitting tenant."

The right to compensation only arises on the tenant "quitting his holding on the determination of a tenancy." No attempt is made to provide for the contingency of the rent being raised upon the tenant's own improvements. Every change of tenancy involves expense and loss to the landlord: the rent could only be raised either with the consent of the tenant, or by serving him with a notice to quit, and if a notice to quit were given by either party the landlord might be liable for compensation; so he is hardly likely to rack-rent the tenants on his own improvements.

Compensation on change of tenancy.

Sect. 58 provides for compensation for improvements made during a former tenancy, where the tenant continues in his holding during a change of tenancy, as, for instance, where a lessee increases his holding during the currency of a lease.

Leases of Trust and Charity lands. S. 42.

Where trustees are authorised to lease at the best

rent obtainable they need not, in renewing leases, raise the rent on the tenant's improvements.

(Matters in respect of which compensation may be claimed.)

The matters in respect of which compensation can be claimed are set out in the three parts of the first schedule to the Act.

S. 3. Schedule 1, Part 1.

So far as the improvements in Part I. are concerned, matters are left very much as they were before the Act. The *consent of the landlord in writing* must be obtained before they can be executed, and they are generally of a permanent nature and requiring a large outlay of capital. The landlord may give his consent upon any terms he pleases, and, in fact, arrange with his tenant as before.

Part II. contains only one improvement, namely, Drainage.

Schedule 1, Part 2, Drainage.

Sect. 4 relating to drainage is the most difficult and ambiguous in the Act, and will probably require judicial interpretation. Its meaning appears to be as follows:—The landlord and tenant may agree by a clause in an existing Agreement, or by a fresh Agreement or otherwise, as to the execution of drainage, as if the Act had not been passed. See Appendix 1, clauses 9 and 18. If they do not so agree; before drainage can be executed, not more than three and not less than two months' notice in writing of the tenant's intention stating the manner in which he intends to do the work, must be given to the landlord. The Act then provides three alternative modes:—The landlord may do the drainage himself and charge the tenant interest at £5 per cent. on the outlay for any length of time, or such a sum as will repay principal and

Form 8.

S. 4. How drainage may be done.

interest at £3 per cent. in a term not exceeding twenty-five years; or, the landlord may stand by and see the tenant do the drainage at his own risk; or the landlord and tenant may agree upon the terms "as to compensation or otherwise on which the improvement is to be executed by the tenant." See Appendix I, Clauses 9, 18, and 11 *a*.

Charge of drainage on holding. S. 29.

If the landlord do the drainage himself he may charge the cost of it upon the holding.

Drainage by tenant in default.

If the landlord undertakes to drain and does not comply with his undertaking within a reasonable time, the tenant may execute the draining and claim compensation.

This provision as to drainage seems open to considerable abuse. Arable land, which requires much drainage, will generally repay the outlay in a very few years, and there are large areas, which, by an outlay of a very few pounds, may be doubled in value. Yet, under the first section, the tenant, if he has increased the rental value, may not only recover his outlay after many years' enjoyment of the property, but may make a considerable profit on his capital by recovering from his landlord some twelve or thirteen years' purchase on the increased value of the land. Beyond the 'inherent capabilities of the soil' (which may mean anything or nothing) there is nothing to limit the amount which the tenant may receive.

Schedule 1, part iii.

Part III. contains some improvements of a durable nature, such as chalking, liming, and so on, and others, the effects of which are very quickly exhausted, such as the application of artificial manures and consumption of feeding stuffs.

No consent or notice is necessary before these improvements in part III. are executed, though notice of claim [Form xi.] must be given.

(Specific and fair and reasonable compensation.)

The landlord and tenant may exclude the Act, as to the improvements in part III. by "a particular agreement in writing, providing fair and reasonable compensation." S. 9.

In considering what constitutes such fair and reasonable compensation as would oust compensation under the Act, regard is to be had to the "circumstances existing at the time of making such agreement." Thus a sudden increase in prices, or in the value of the land will not affect the fairness or reasonableness of an agreement. If this provision is construed liberally, as it ought to be, and the state of things existing at the time of executing the agreement fairly weighed and considered, it ought not to be a difficult matter to draft an agreement providing fair and reasonable compensation. The provisions of the Act itself, and of the Agricultural Holdings (England) Act, 1875, taken with the customs of each particular district, will form a fair test of what is fair and reasonable compensation.

How ascertained. S. 17.

Procedure for reference applies to substituted compensation.

The Act does not provide any means for ascertaining whether compensation by agreement is specific or fair and reasonable. The procedure for reference [by s. 17] applies to such substituted compensation only so far as to give the referees power, if compensation is claimed under the Act, to award compensation for improvements provided for by such agreements, "if and so far as the same can, consistently with the terms of the agreement, if any, be ascertained by the referees or umpire" and the award is, when necessary,

to distinguish such improvements and the amount awarded in respect thereof.

The effect of the section would, at first sight, appear to be that a tenant might claim compensation under the Act for matters contained in his agreement, and also for matters not covered by the agreement but included in the schedule to the Act, and that he could then obtain compensation for all such matters before a referee. But it must be remembered that the compensation provided by ss. 3, 4, and 5, is to be deemed to be substituted for compensation under this Act; the object of the section is only to give the tenant the option of having the compensation due under his agreement assessed by referees as if it were compensation due under the Act, and it does not give the referee any power of ascertaining the validity and meaning of an agreement; any tenant questioning the agreement on the ground that the compensation is not specific or fair or reasonable, must still seek the assistance of a court of law. Nor would the section, it is presumed, apply where the agreement provides a mode of assessing such compensation; as this would not be consistent with the agreement.

The result of this will be that where a tenant who has entered into an agreement for compensation seeks to obtain compensation for matters not thereby provided for, he must first set aside the agreement in a court of law before he can claim. Owing to the necessity for giving the proper notices, he may have some difficulty in making his claim afterwards. He should, in such a case, give his notices, appoint a referee, get an umpire appointed, and then obtain an extension of time by the Registrar of the County

Court, until the validity of the agreement is decided by the Court.

With these difficulties, when there is an agreement providing any sort of compensation, it will probably be unusual to get it set aside. Judges will look with disfavour upon an attempt to upset an agreement entered into by a tenant with open eyes, unless it is a flagrant evasion of the principles of the Act.

Compulsory reference. Ss. 17, 23.

On the other hand, under any agreement providing *substituted compensation* the tenant can always force his landlord to a reference with an appeal to the County Court, unless a provision like clauses 29 or 13*a* of Appendix I is inserted in such an agreement, and, it may be, even in spite of such an agreement; for if the tenant claims under the Act, and less than £100 (see sect. 23 (2)) is awarded to him, it is difficult to see what remedy the landlord has until the tenant applies for an order under sect. 24 for payment of the amount awarded, when the landlord would, perhaps, be able to raise the question of the validity of the award, see pp. 3, 15, 19, 20. However, it will always be worth while, notwithstanding the ambiguous terms of sect. 17, to contract out of the Act, and to provide a mode of assessing compensation.

Landlord may impose terms.

There is nothing in the Act to prevent a landlord from imposing terms upon his tenant as to what improvements should be executed, or prohibiting him from executing certain improvements without the landlord's consent. Sect. 55 only avoids an agreement depriving a tenant of his right to compensation for improvements already executed. If the agreement specifies certain improvements and gives specific compensation for them, stating it to be in substitution

for compensation under the Act, this agreement, even if it contains terms prohibiting improvements or regulating their execution, would hardly be considered by a court of law as unfair or unreasonable. Where an agreement provides for a reduction of rent as compensation in consideration of the tenant executing improvements it should be distinctly stated that this is so.

(*Basis on which compensation is calculated.*)

S. 1. The basis upon which compensation is to be calculated is to be the "value of the improvement to an incoming tenant," and not as in the Act of 1875 the unexhausted value of the "outlay." The criterion of the value to an incoming tenant will no doubt be in most cases the rental value, and part of this may be due to a general rise in the value of land, or causes other than the making of the improvement.

Restrictions and limitations on compensation. S. 1. This test of value is, however, limited as follows:—

(1.) The valuers are not, in estimating, to take into account what is justly due to the inherent capabilities of the soil.

S. 6. (2.) The landlord may set-off against the tenant's claim arrears of rent, rates, taxes, tithes, waste, damages for breach of covenant, and benefits and allowances made in consideration of the improvements. See as to notice, &c., notes to sect. 7.

S. 59. (3.) With the exception of the improvements numbered 22 and 23, no compensation can be claimed for improvements begun after the following times:—

If the tenant is a yearly tenant, and entitled to a year's notice—within one year before he quits his holding, or after he has given or received notice resulting in his quitting;—

If he is a yearly tenant, and entitled to six months' notice only—within one year before he quits, if *he* gives notice resulting in his quitting; if he has begun within the year and *his landlord* gives him notice, he may go on and claim;—

If he is a lessee—within one year before the expiration of his lease.

If the tenant previous to beginning the improvement has given notice of his intention to the landlord, and the landlord has assented, or has failed to object for a month after receipt of notice, the tenant can claim compensation. Form 10. Consent of landlord.

(4.) Before the tenant can obtain compensation he must have given the notices required by sect. 7. S. 7.

On the other hand, the tenant may add to his claim any sum due in respect of a breach of covenant or other agreement connected with a contract of tenancy and committed by the landlord. Additions to claim for compensation. S. 6.

The "inherent capabilities of the soil" (if it means anything, and was not inserted *ex majori cautelâ*) forms a field for speculation and dispute, as what such capabilities are must rest solely on the diverse decisions of valuers. See notes on p. 3. The inherent capabilities.

The provision for set-off does not provide for one very common case. In most leases and agreements the tenant covenants to bring and spread upon the farm yearly so much manure: *i. e.*, without compensation. By the same instrument the rent of the farm is fixed. Now, however (unless the valuers decide that good husbandry only ought not to entitle the tenant to compensation, and that the artificial manure brought on was only sufficient to keep the farm in Set-off. What is a benefit.

good condition), the tenant, having contracted to incur expenditure without compensation, will be entitled to compensation for keeping his farm in good condition, and the rent fixed can hardly be considered a "benefit" within the section.

Improvements after notice to quit.

The restriction on the execution of improvements, after notice to quit, will afford no protection to landlords, unless a year's notice to quit is required. If six months' notice has been agreed for, and the tenant begins his improvement before he receive notice, he may go in and finish it after notice, and then claim compensation. This, at any rate, seems to be the meaning of the first proviso of sect. 59.

(Notice of claim by tenant.)

Claims under agreement or custom.

The tenant intending to claim compensation under the Act must be most careful to give the necessary notices (p. xxviii). Under the Agricultural Holdings Act of 1875, many claims were lost for want of the proper notices. If the tenant give no notice, or give notice too late, he cannot claim under the Act, and must make the best he can of any agreement or custom. It may sometimes, in such a county as Lincolnshire, be of more advantage for tenants to remain under agreement or custom than to give notice under the Act.

Landlord's counterclaim. S. 7.

On notice being given by the tenant, the landlord and tenant may agree as to the amount, mode, and time of payment of the compensation. (Form 13.)

If they do not agree as to the amount, the landlord may give the tenant a counter-notice of claim, under sect. 6, in respect of any waste or breach of covenant or other agreement. If the tenant does not proceed with his claim, there is nothing to prevent the landlord

from going on with his counter-claim and obtaining compensation. See notes to sect. 7.

This section will have a very beneficial effect in preventing an outgoing tenant, whose rent is in arrear, and who leaves his farm in bad condition, from claiming against his landlord for compensation in the hope of forcing him to a reference, as he may be immediately met by such a counterclaim.

See as to the bankruptcy of the tenant, notes to s. 1.

The parties will then proceed to a reference in the manner mentioned in sect. 9, *et seq.*

Charge on holding, payment and recovery of compensation.

When the landlord has paid compensation to the tenant, or when he has expended money in doing drainage after notice [see p. xv], he may obtain from the County Court a charge upon the holding for the amount paid or expended.

If the landlord is a trustee he can obtain such a charge before payment. Sect. 31.

The tenant may also in some cases obtain a charge. Ss. 30, 31.

The provisions as to the charge of compensation on the holdings, the payment, and recovery of compensation will be found set out in the Summary of Procedure, *infra* p. xxxvi.

(*Precedents of Agreements.*)

Evading the Act.

There is no clause in the Precedents below providing for evading the Act, but the Act can, if necessary, be practically evaded by inserting, as a rent for the last year of the tenancy, a sum roughly calculated to recoup compensation, and then, providing that if the tenant shall not in the last year of the tenancy execute any improvement upon the farm in respect of which he might claim compensation

under the Act, or shall not put on the land certain specified artificial manures without first obtaining his landlord's consent in writing, the landlord should accept rent for the last year at the same rate as for the other years; or, providing that the tenant should, on quitting, accept a sum equal in amount to the increase in the last year's rent as compensation for every matter in respect of which he is entitled to compensation.

The second Precedent is intended for use when a form is required in haste, or where it is not necessary to reduce all the terms to writing.

A few remarks may here be made about the clauses and objects of the first Precedent.

Notice to quit.

Clause 2 excludes sect. 33 of the Act, providing for one year's notice to quit. It may be questionable, however, whether it is expedient to exclude this section, having regard to the provisions of sect. 59.

Rents and Penalties.

The clauses will necessarily be modified according to the customs, and the different relations of landlord and tenant in the different counties. The rents and penalties in clause 5 will not by any means be universally applicable. Tenants in some counties are allowed great liberty as to rotation of crops, and as to the crops to be put upon the land, and in the present times it is inexpedient to press a tenant too closely.

Rent payable in advance.

The same remarks apply to clause 7. In some counties no tenant would accept such a clause. In others it is frequent; in others it is only the last half-year's rent which is made payable in advance. Its effect is that, if the landlord is compelled to distrain, he can distrain for one year and a half's rent "accrued due."

The agreement for compensation (clause 10) referring to the second schedule of the agreement, clause 12 providing for payment of compensation by the incoming to the outgoing tenant, and the second schedule itself, only extend to the matters in part III. of the first schedule to the Act. In practice the compensation for the permanent and durable improvements will be paid by the landlord, but for the transient improvements such as manures and feeding stuffs by the incoming tenant just as he now pays for seeds and tillages. The incoming tenant may leave himself before the value of a durable improvement is exhausted. Compensation. By whom paid.

If the landlord and tenant come to any agreement as to the execution of matters in part I, they will probably do so by a separate agreement.

Clauses 9 and 18 provide an agreement for drainage. Independently of such an agreement there is no clause in the Act giving the landlord any power to drain and charge the holding in the first instance where he has an obstinate tenant who refuses to drain. He must either give his tenant notice to quit, or do it himself under clause 3 at his own expense, and charge the holding under section 29 of the Act with the amount. Drainage.

As above mentioned the clauses as to cultivation may be dispensed with or greatly modified according to the variety of soils and climates in the country. Those in the Precedent are applicable in the four course system only, as being the most general system in the country. Cultivation.

Clause 15 relating to selling off produce will, in many cases, require considerable modification in form Selling off crops.

or in practice. In many counties tenants are allowed to sell off produce for the first two or three years.

Artificial Manures.

Clause 16 relating to samples of artificial manures may be sometimes found impracticable, owing to the amount of labour which it would entail on the landlord, but where practicable it would be decidedly useful by giving the Landlord control over the quality of the manure put upon the soil, and it would enable him to ascertain the value of the manures in the event of a reference, as otherwise the valuer on estimating the amount of compensation has nothing to go on but the tenant's vouchers. Such a clause would not be within the provisions of s. 55, nor would it render an agreement unfair or unreasonable.

Manufactured manures and feeding stuffs are matters in which farmers are very liable to be imposed upon, some of them are hardly worth the cost of carriage.

Last year, and quitting.

The clauses relating to the last year of the tenancy and quitting are very various. Those which are most general have been inserted, and it is believed that the general valuation clause 24 will be found in most cases to include the tenant right by custom not touched by the Act.

Arbitration clause.

It may very likely be objected that the procedure under the Act is not sufficiently satisfactory for general purposes of valuation, but it has been thought better to make use of it to avoid two different kinds of valuation at the termination of a tenancy, one under the Act, and one under custom, especially in view of sect. 17. It will be observed that the procedure has been modified so as to avoid the most objectionable features. The procedure before Justices relating to a distress is also incorporated in this clause.

SUMMARY OF PROCEDURE.

The procedure under the Act is of three kinds :—

(1.) PROCEEDINGS BEFORE A REFEREE, REFEREES, OR UMPIRE— Procedure on reference— (1) Before referees.

(*a.*) To obtain compensation for unexhausted improvements.

(*b.*) To assess the value of a fixture claimed by the tenant.

(2.) PROCEEDINGS IN THE COUNTY COURT— (2) In the County Court.

(*a.*) To appoint a referee or umpire.

(*b.*) To extend the time for delivering the award.

(*c.*) On appeal from a reference.

(*d.*) To appoint a guardian or next friend.

(*e.*) To tax costs.

(3.) SUMMARY PROCEEDINGS IN THE COUNTY COURT, OR BEFORE JUSTICES— Procedure under Distress clauses.

(*a.*) To decide matters arising under the sections relating to distress.

The two first will be treated together, as they both apply to the same matters, the County Court being in fact as well a Court of Assistance as a Court of Appeal from the reference.

The forms for use in the proceedings will be found in Appendices 2 to 5 inclusive, *infra.*

Landlord and tenant are the parties contemplated by the Act as taking these proceedings; but other persons may, under sect. 46, become parties to the proceedings under the distress clauses, and there is nothing in the Act to prevent mortgagees, remaindermen, and others, from attending the reference or County Court proceedings to see after their Parties to proceedings.

interests, though there is no provision in the Act for allowance of their costs if they do so. The costs of the reference are in the discretion of the referees or umpire, and the costs of County Court proceedings and proceedings before the Justices are in the discretion of the Court.

Costs. Ss. 20, 27, 46.

Appointment of guardian. S. 25. p. 20.

Forms 34, 36.

By sect. 25, where a landlord or a tenant is an infant without a guardian, or is of unsound mind not so found by inquisition, the County Court, on the application of any person interested, may appoint a guardian for the purposes of this Act, and may change the guardian if and as occasion requires.

Married women. S. 26. p. 20.

Forms 34, 36.

The County Court may also appoint a person to act as the next friend of a married woman for the purposes of this Act, and may remove or change that next friend if and as occasion requires.

No special mode of procedure is provided for such applications, and they may be made by summons.

Service of notices, &c. S. 28. p. 21.

Any notice, request, demand, or other instrument may be served on any person under this Act—

(1.) Personally.

(2.) By leaving it at his last known place of abode in England.

(3.) By sending it through the post in a registered letter addressed to him there.

Under the compensation clauses all appointments, notices, and requests must be in writing (with the exception perhaps of the notice in sect. 14 by the referees to the parties), and it will always be well to send notices in writing in any case.

Procedure on reference.

PROCEDURE ON REFERENCE.

Giving Notice.

See as to consent of landlord, and notice to landlord, before execution of improvements, pp. xv, xx.

Of the notices necessary before reference.

Where a tenant has executed any improvement in the Schedule to the Act, and he has agreed with his landlord for substituted compensation under any of the ss. 2—5,

he need not give notice of his intention to claim compensation in respect of such improvements, unless he desires to have the compensation under the agreement assessed by reference under the Act (*supra* p. xvii; sect. 17). Otherwise the compensation is payable in pursuance of the agreement, and the agreement must be set aside in a court of law before either party can claim under the Act.

Compensation by agreement. Ss. 2—5. pp. 4—8.

Where, however, the tenant has made no agreement with his landlord, and he wishes to get compensation for unexhausted improvements under the compulsory clauses of the Act, or where he wishes to have the compensation payable under his agreement assessed by reference under the Act, he must be most careful not to neglect giving to his landlord notice in writing *at least two months before the determination of his tenancy* (see notes to sect. 1) of his intention to claim compensation, in addition to the consents and notices necessary before execution.

Compensation under the Act. Ss. 1—6. pp. 1-10.

Notice of Claim. S. 7. p. 10.

Form 11.

If he neglect to give this notice or give it a day too late, his claim to all compensation under the Act is clean gone, and he must recover what compensation he can by custom or in any other manner allowed by sect. 57.

On receipt of such notice the landlord may, on his part, *before, or within fourteen days after, the determination of the tenancy*, give a counter-notice in writing that he claims to set-off against the tenant's claim a claim for compensation in respect of the matters mentioned in sect. 6.

Counter notice by landlord. Ss. 6, 7. pp. 8-10.

Form 12.

It must be noticed that the landlord cannot give notice to a tenant in the first place. The power of beginning proceedings for compensation lies with the tenant. When the tenant has once begun, the landlord may go on with his counterclaim, even if the tenant's claim is withdrawn. See notes to sect. 7.

Tenant only can begin.

When under sect. 34 the tenant intends to remove a fixture or building put up by him upon his holding, after Jan. 1st, 1884, he must give *one month's previous notice* in writing of

Assessing the value of a fixture S. 34. p. 28.

Form 15.

his intention to remove it, and satisfy all the obligations which by that section are conditions precedent to its removal.

The month's notice ought to be given before the determination of the tenancy (sect. 1), as it is only a *tenant* (sect. 61) who can give the notice; but it need not necessarily have expired before the tenancy has determined.

Counter notice by landlord. p. 28.

Form 16.

The landlord may at any time before the expiration of the notice of removal give notice in writing that he elects to purchase the fixture.

Agreement as to Compensation or Value of Fixture.

Agreement as to compensation or value. S. 8. p. 11.

Form 2

The landlord and tenant may then by agreement between themselves settle the question of compensation for unexhausted improvements, or the value of the fixture.

They may agree as to the "amount, mode, and time of payment of compensation" for improvements, or as to the value of the fixture. If they differ, the difference is to be settled by a reference in manner provided by the Act.

Appointment of a Referee.

The referee. Ss. 9—14. pp. 11–14.

A referee may be appointed—

(1.) By the parties jointly by agreement.

(2.) By each party separately.

(3.) By the County Court.

(4.) By the Land Commissioners for England.

Appointment by agreement of a single referee. S. 9. Sub-s. 1, 2. p. 12.

Form 17.

The parties may agree in writing in appointing a single referee.

If before award the referee die, or become incapable, or if he fail to act after seven days' notice in writing requiring him to act from either of the parties, they may agree and appoint a fresh referee, or they may appoint separate referees as below.

On each such appointment the appointment must be delivered to the referee.

The delivery will be a submission to reference by the parties delivering it. Neither party can revoke a submission or the appointment of a referee without the consent of the other.

Revocation of submission. S. 12. p. 13.

Forms 20, 21.

The single referee will then consider the matters referred, and make his award.

Where the parties do not agree, each shall appoint a referee in writing.

Where parties do not agree. S. 9. Sub-s. 3. p. 11.

If either of these referees before award die, or become incapable of acting, or if either fail to act after seven days' notice in writing from either of the parties requiring him to act, the party appointing him shall appoint a fresh referee.

Sub-s. 4.

Forms 17, 19.

On each appointment the appointing party must give notice in writing to the other party stating the fact of the appointment, and requiring the other party, if he has not already done so, to appoint a referee.

Notice of appointment. S. 9. Sub-ss. 5, 6. p. 11.

Form 18.

Either party may also by such notice require that the umpire shall be appointed by the Land Commissioners or by the County Court (see below p. xxxii).

S. 10. p. 12. Form 24.

When the two referees are appointed, they shall, before they enter on the reference, appoint, in writing, an umpire (where one has not been previously appointed by the County Court or by the Land Commissioners). If before award the umpire die, or become incapable of acting, they shall appoint another umpire.

Appointment of umpire. S. 9. Sub-s. 7. p. 12.

Form 27.

Sub-s. 8. p. 12.

When the referees cannot agree they must give notice to the umpire of the reference to him.

When referees cannot agree. S. 18. Form 28.

When the parties fail to appoint referees or umpires, and in certain other events, powers of appointment are given to the County Court and the Land Commissioners. They are as follows :—

When parties fail to appoint. S. 9, Sub-s. 6. and S. 10. pp. 11, 12.

(1.) Where any party fails to appoint a referee for fourteen days after receiving a notice from the other

Appointment of referee by County Court. S. 9. Sub-ss. 4, 6 p. 11.

party requiring him to do so, the Judge of the County Court, or by consent of the parties the Registrar, may on the application (by summons in chambers) of the party giving notice, appoint a referee.

Forms 32, 33.

[See notes to sect. 9, sub-s. 6 for the practice.]

Appointment of umpire by Land Commissioners. S. 10. Sub-s. 1. p. 12.

Form 24.

Form 26.

(2.) Either party, if he has appointed a referee, may give notice in writing to the other party that he requires that the umpire shall be appointed by the Land Commissioners. The Land Commissioners will then, on the application of either party to them, appoint an umpire or a fresh umpire.

Appointment of umpire by County Court on application. S. 10. Sub-s. 2 s. 11. p. 13.

Forms 25, 32, 33.

Form 26.

(3.) Either party may, if he has appointed a referee, give notice that he requires that the umpire shall be appointed by the County Court. If the other party do not dissent, the Judge of the County Court (or by consent of the parties the Registrar) may, on the application of either party, by summons in chambers, appoint an umpire or a fresh umpire. The other party may, however, dissent in writing from this. If he do so, the Land Commissioners will, on the application of either party, appoint an umpire or a fresh umpire.

Appointment of umpire by County Court in default. S. 9. Sub-s. 9, s. 11. pp. 12, 13.

Forms 23, 32, 33.

(4.) Where the referee for seven days after request from either party fail to appoint an umpire or a fresh umpire, the Judge or Registrar of the County Court may in like manner, on the application of either party within fourteen days appoint an umpire.

Costs. S. 27. p. 21.

The costs of proceedings in the County Court are in the discretion of the Court.

The referee, referees or umpire will then proceed to consider the matters referred. The Hearing.

They may proceed in the absence of parties after giving notice. Form 29.

They may call for the production of "any sample or voucher, or other document, or other evidence which is in the possession or power of either party, or which either party can produce, and which," to them, "seems necessary for the determination of the matter referred," and they may examine the witnesses on oath. There is no provision in the Act enabling referees in the event of persons disobeying their orders to enforce production of documents or samples, or imposing a penalty on non-production. It must be noticed too that they can only call for the production of evidence "in the possession or power of either party, or which either party can produce." Evidence. S. 13. p. 13. Form 30

As a referee could disallow any claim which could only be supported by evidence which is not produced, and make the offending party pay the costs, the section will probably work in practice, notwithstanding the want of sanctions for disobedience to the referee's orders.

A referee must obtain evidence on all the points which must be specified in his award. If any such evidence is wanting, he cannot award any compensation in respect of the matters covered by it. Form 31. p. xxxiv.

The costs of and attending the reference, including the remuneration of the referees or umpire, and "other proper expenses," are in their discretion. Such costs are subject to taxation by the Registrar of the County Court, on the application of either party, in chambers, in the same way as in an ordinary action in the County Court, and the taxation is subject to review by the Judge of the County Court. Costs of reference. S. 20. p. 16. Form 31.

The times for delivering the award are as follows :— Time for delivery of award. By referee. S. 16 p. 14.

(1.) For a single referee, twenty-eight days after appointment.

Form 22.

(2.) For two referees, twenty-eight days after the appointment of the last appointed of them, or—

(3.) The two referees may, from time to time, jointly fix a further time by writing under their hands, not exceeding, in the whole, forty-nine days after the appointment of the last appointed of them.

Form 28.

If the two referees fail to deliver their award within such time, the matters stand referred to the umpire.

By umpire. S. 18. p. 15.

Form 29.

(4.) For the umpire, twenty-eight days after notice in writing, given to him by either party, or by the referees of the reference to him, *unless*—

Extension of time by registrar of County Court. S. 18. p. 15.

Forms 35, 36.

(5.) The Registrar of the County Court, from time to time, appoints an extended time, on the application of the umpire, or of either party, made before the twenty-eight days, or time or times already extended by the Registrar, have expired.

The Registrar may make what extension of time he pleases, as no limit is placed upon his discretion.

What the award must contain. S. 19. p. 15

The award must be in writing, signed by the referee or referees, or umpire.

It must specify, "so far as possible," *(infra p. 15)*

Form 31.

(*a.*) The several improvements, acts, and things, in respect whereof compensation is awarded.

(*b.*) The time at which each improvement, act, or thing, was executed, done, or permitted.

(*c.*) The sum awarded in respect of each improvement, act, or thing.

Where the landlord desires to charge his estate with the amount of the compensation found due to the tenant—

(*d.*) The time at which, for the purposes of such charge, each improvement, act, or thing, in respect of which compensation is awarded, is to be exhausted.

Also—

S. 20. p. 16.

(*e.*) In what proportion the costs of the reference are to

be borne by the parties, or by whom they are to be borne.

(*f.*) A direction for payment of costs.

(*g.*) A time, not sooner than one month after the delivery of the award, for the payment of money awarded for compensation, costs, or otherwise. S. 21. p. 16.

When the sum "claimed for compensation" (which means, it is submitted, the sum claimed by either party, and not the aggregate of the sums claimed by both parties) is less than £100, the award is final. Award when final. p. 17.

Either party may then apply to tax the costs of the reference (*supra p.* xxxiii.)

If the sum claimed exceeds £100, either party may appeal to the Judge of the County Court; on such appeal the decision of the Judge is final, except on questions of law, on which he must state a case for the High Court, at the request of either party. Appeal from award. S. 23. p. 17.

The decision of the High Court, not only on the case, but on costs, and any other matter connected therewith, is final, and must be enforced as if it were a judgment of the County Court.

The submission, or award, cannot be made a rule of Court, or be removable by process into any Court, and an award cannot be questioned in any other way than by appeal to the County Court as above. The award cannot be questioned except by appeal. S. 22. p. xvii.-xix.

If either party intend to appeal he must do so *within seven days after the delivery of the award* to him, and if no appeal is brought within such time the award is final. Time for appeal. S. 23. p. 17.

The appeal may be made on all or any of the grounds set out in sect. 23, and the practice on an appeal is for greater convenience stated in the notes to that section. Grounds of appeal. S. 23. p. 17.

The Judge shall hear and determine the appeal, and may in his discretion remit the case to be reheard, as to the whole, or any part thereof, by the referee, or referees, or umpire, with such directions as he may think fit. Procedure on appeal. pp. 17, 18.

Recovery of sums agreed, awarded, or ordered, to be paid.

Compensation how recovered. Ss. 24, 31. pp. 19, 25.

Form.

S. 24.

When the parties have agreed under sect. 8 (as to which see note to sect. 24), as to the moneys to be paid—or where a sum has been awarded—or where an order has been made on appeal for a sum to be paid—for compensation, costs, or otherwise; then, if the money is not paid within fourteen days after the "time when it is agreed, or awarded, or ordered to be paid," it is recoverable in the County Court as if it were money ordered to be paid by the County Court under its ordinary jurisdiction.

Trustee or mortgagee.

Sect. 31 provides that, where the landlord is a trustee or person entitled to the rents in any character otherwise than for his own benefit, the amount shall not be recoverable from him personally, but he may charge it on the holding, either before or after it has been paid to the tenant, or in default of payment by the landlord the tenant may charge it, within one month after he has quitted his holding.

Charge of Compensation.

Obtaining a charge. Ss. 29-32. pp. 22-26.

A landlord, on paying the amount due to the tenant for compensation, or on draining, under sect. 4, after notice to drain given by the tenant, may obtain from the County Court a charge on the holding to the amount of the sum so paid or expended in draining.

See as to trustee, or person having no beneficial interest, and charge by the tenant, *supra*.

Evidence required. S. 29. p. 22.

The Court will require from a beneficial owner,

(1.) Proof of the payment, or expenditure, of the sum sought to be charged.

and it will also, in any case, require to be satisfied of—

(2.) The observance, in good faith, by the parties of the conditions imposed by this Act.

As to the possible meaning of this latter requirement, see the notes to sect 29

The Court must then make an order, charging the holding with the amount paid with such interest and by such instalments and with such directions for giving effect to the charge as the Court thinks fit.

Order of charge p. 22

The instalments and interest will be charged in favour of the landlord, his executors, administrators, and assigns upon the landlord's interest in the land, and "for all interest therein subsequent to that of the landlord." Where, however, the landlord is himself a tenant who pays compensation to an underlessee he can only charge the land for the interests of himself and his representatives. Where the landlord is a limited owner only, the instalments and interest will be spread over a smaller number of years, according to the time when the improvement is taken to have been exhausted, according to the declaration of the award, or if no award has been made, according to the opinion of the court.

Ss. 29, 30.

Underleases. p. 24.

Limited owners. p. 23.

Incumbents of benefices cannot give consent to improvements, or charge compensation on the glebe, without the approval in writing of the patron, or the Governors of Queen Anne's Bounty, who may then pay the compensation, and take a charge on the holding.

Incumbent benefices. S. 39. pp. 23, 32.

The landlord may assign the charge to a Land Company, and the Land Company may assign it to any person or persons whomsoever.

Assignment of charge. S. 32. p. 26.

No special rules of procedure have been made under these sections 29-32, of the Act, [*which are nearly identical with ss. 42-44 of the Agricultural Holdings Act, 1875*] and therefore by order XXXVIII of the County Court Rules, 1875, the procedure will be the same as in an ordinary action.

Procedure to obtain charge.

Proceedings may therefore be taken either by petition or plaint. Petition would appear to be the most convenient form. It could be served if necessary on any parties interested, such as remaindermen or mortgagees. There is

Petition. Appendix iv. Form 40.

no provision for the costs of interested parties appearing but the costs are in the discretion of the court.

Summary Procedure before Justices and at Quarter Sessions.

Procedure under the distress clauses. Ss. 44-52. pp. 36-42.

Disputes as to the ownership of goods distrained, the fairness of price for agisting and other matters set out in the notes to sect. 46 relating to a distress upon the holding, may (but the section is not compulsory) be decided either by the County Court, or by a Court of Summary Jurisdiction [consisting of two or more Justices of the Peace, *Summ. Jurisd. Act, 1879, S. 20, Subs. 9.*], with an appeal to Quarter Sessions.

In County Court.

The observations above, as to the proceedings to obtain a charge, will apply to the proceedings in the County Court. In this case it would be more convenient to begin them by plaint, and to frame the plaint as far as possible according to the ordinary forms of action in the County Court for damages, illegal or excessive distress, detinue, and so on.

Before Justices.

"An order on complaint." S. 46. p. 38.

The disputes under these clauses are to be deemed to be matters "in which a court of Summary Jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts."

By sect. 6 of the Summary Jurisdiction Act, 1879, sums recoverable by a summary order on complaint are deemed to be civil debts and are recoverable as such.

Summons. S. J. A. Rules, 1880, r. 18.

The proceedings will therefore be initiated by summons on complaint, and the subsequent forms will be those provided for the recovery of civil debts, that is to say :—

The particulars of the claim will be annexed to or embodied in the summons.

Order for payment of money.

On the summons an order may be made for payment of the sum adjudged as damages, or as the price of live stock or things unlawfully distrained, or otherwise, and for costs.

S. J. A., 1879. S. 7.

The court may allow time for payment of the sum

adjudged; may direct payment by instalments, or may direct an undertaking with security to be given for its payment.

In default of payment a distress warrant, to levy distress on the defendant's goods, may be obtained.

Default of payment.

In default of distress, a judgment summons must be taken out, and the applicant must prove to the court that the defendant has means to pay. If he do so, an order will be made for payment, or for commitment in the alternative.

Default of distress, S. J. A. 1879. S. 35. S. J. A. Rules, 19-21.

The forms for the recovery of money under such procedure may be obtained from the clerk to the magistrate, or from any law stationer.

Forms.

In addition, however, to the power of making orders for the payment of money, the court may, under the 46th section of the Act, "*make an order for restoration,*" and may make declarations as to the property in goods. The form of order in such a case differs from the forms mentioned above, and the procedure subsequent to the order is different.

Order for restoration of chattel. S. 46. p. 38.

Form 44

By sect. 34 of the S. J. Act, 1879, where a power "is given by any future Act to a Court of Summary "Jurisdiction, of requiring any person to do, or abstain "from doing, any act or thing other than the payment "of money, or of requiring any act or thing to be done, or "left undone, other than the payment of money, and no "mode is prescribed of enforcing such requisition, the court "may exercise such power by an order or orders," with or without conditions, and may suspend or rescind the order, "on such undertaking being given, or condition being "performed, as the court may think just, and generally may "make such arrangement for carrying into effect such power "as to the court seems meet."

S. J. A. 1879. S. 34.

Disobedience to Order.

Form 44

"A person making default in complying with an order "may, in the discretion of the court, be ordered to pay a "sum [to be enforced as a civil debt, recoverable summarily "under this Act, see *supra.*] not exceeding £1 for every "day during which he is in default," and not exceeding, in the aggregate, £20, "*or* to be imprisoned until he has "remedied his default," such imprisonment not to exceed two months.

It should be noticed that the punishment in default is in the alternative, and that the justices could send to prison in the first instance, without imposing a fine.

Appeal. S. 46.

Time for appeal. S. J. A. 1879. S. 31 (1).

Any "person aggrieved" [see note to sect. 46] by the decision of the court may appeal to Quarter Sessions. He must appeal to the next practicable court having jurisdiction in the county, borough, or place, for which the said Court of Summary Jurisdiction acted, and holden not less than fifteen days after the day on which the decision was given, upon which the conviction or order was founded.

Notice of appeal. S. J. A. 1879. S. 31 (2).

Form 45.

He must give notice of appeal within seven days after the day on which the decision was given, by serving on the other party, and on the Clerk of the Court of Summary Jurisdiction, notice in writing of his intention to appeal, and of the general grounds of such appeal. [See form 45 *infra.*]

Recognizance. S. J. A. 1879. S. 31 (3).

He must enter into a recognizance within three days after the day on which he gave notice of appeal, or, if the court think fit, give security.

The proceedings on appeal will be found set out in sect. 31 of the Summary Jurisdiction Act, 1879.

THE AGRICULTURAL HOLDINGS (ENGLAND) ACT, 1883.

N.B.—Words which, by sect. 61, have a special meaning are throughout printed in italics.

PART I.

IMPROVEMENTS.

Compensation for Improvements.

General right of tenant to compensation.

pp. xiii.-xxii.

1. Subject as in this Act mentioned, where a *tenant* has made on his *holding* any improvement comprised in the First Schedule hereto, he shall, on and after the commencement of this Act, be entitled on quitting his *holding* at the *determination of a tenancy* to obtain from the *landlord* as compensation under this Act for such improvement such sum as fairly represents the value of the improvement to an incoming *tenant:* Provided always, that in estimating the value of any improvement in the First Schedule hereto there shall not be taken into account as part of the improvement made by the *tenant* what is justly due to the inherent capabilities of the soil.

Subject as in this Act mentioned—See sects. 2 to 5 and see sect. 7 as to notice.

Ss. 2-5.
S. 7.

On his holding—See sect. 54.

S. 54.

On and after the commencement of this Act—January 1st, 1884.

S. 53.

On quitting his holding at the determination of a tenancy—Except as provided by sect. 58 a tenant who remains in his holding at the determination of a tenancy must make the best bargain that he can with his landlord. He has always the threat of quitting, to be followed by compensation, as a weapon in his hands to bring his landlord to terms. By the provisions of sect. 58, a tenant who remains in his holding during a change or changes of tenancy is not deprived of his right to claim compensation on quitting, so that a tenant who has given notice to quit to his landlord, when the rent has been raised on his improvements, if he afterwards agree with his landlord to withdraw his notice and stay, can claim for his improvements made before notice was given.

The sitting tenant.

By sect. 61 "determination of a tenancy" means the cesser of "a contract of tenancy" (which is also there defined) "by reason of effluxion of time or from any other cause."

S 61.
Determination of tenancy defined.

How a tenancy may be determined.

A tenancy may be determined by the expiration of the term granted, or on the happening of any event on which it is made determinable (such as, in the case of a lease for lives, the death of the *cestui que vie*) or by merger of the term and the reversion in the same right.

Notice to quit.

A tenancy may also be determined by notice to quit. By such notice a tenancy from year to year is determined on the expiration of the current year, and a waiver of the notice creates a new tenancy, taking effect on the expiration of the old one (TAYLEUR *v.* WILDIN, L. R. 3 Exch. 303; 37 L. J. Exch. 173). The notice to quit may be given on behalf of the landlord either by himself or by his agent, and the agent may give the notice in his own name (JONES *v.* PHIPPS, L. R. 3 Q. B. 567; 37 L. J. Q. B. 198. EARL OF ERNE *v.* ARMSTRONG, 20 W. R. 370). The notice should not be given to the sub-tenant (WOODFALL L. and T. 310) but may be delivered to the servant of the tenant or to some person whose duty it would be to deliver it to the tenant (TANHAM *v.* NICHOLSON, L. R. 5 H. L. 561).

Surrender.

A tenancy may also be determined by surrender of the term granted. This may be either express, in which case it must be by deed (29 Car. II. c. 3, sect. 3 and 8-9 Vict. c. 106, sect. 3), or by operation of law. Surrender by operation of law takes place where the tenant has been party to some act the validity of which he is by law afterwards estopped from disputing and which would not be valid if his tenancy had continued to exist (LYON *v.* REED, 13 M. W. 285; L. J. 13 Exch. 377; 8 Jurist. (O. S.) 762). Such is, for instance, the grant of a new lease of the same premises to another with the tenant's consent (DAVISON *v.* GENT, 1 H. &. N. 744; L. J. 26 Exch. 122). An agreement between the parties, followed by a virtual taking of possession on the part of the landlord, makes a surrender by operation of law (PHENÉ *v.* POPPLEWELL, 12 C. B. (N. S.) 334; L. J. 31 C. P. 235; 6 L. T. 247; 8 Jur. 1104). A mere verbal agreement, without more, will not do so, but the landlord must actually take possession or do what virtually amounts to it, and consent to the tenant quitting (OASTLER *v.* HENDERSON, 2 Q. B. D. 579; 46, L. J. Q. B. 607). A surrender of part of the premises and a proportionate reduction of rent does not create a new tenancy (HOLME *v.* BRUNSKILL, 3 Q. B. D. 495; 47 L. J. C. P. 610, and see sect. 41 below).

Rights of an under-lessee on surrender.

An underlessee's rights cannot be put an end to by a voluntary surrender of his lessor's interest (MELLOR *v.* WATKINS, L. R 9. Q. B. 405), nor can his liabilities be affected (8-9 Vict. c. 106, sect. 9) on the disclaimer by the trustee in bankruptcy of the lessee's interest; the landlord may distrain on the underlessee for the original rents and sue him on the covenants as if he were lessee, but he cannot eject him from the property (WALTON, *e.p.*, LEVY, *in re.*, 17 Ch. D. 746; 50 L. J. Ch. 657; EAST AND WEST INDIA DOCK COMPANY *v.* HILL, 22 Ch. Div. 14; 52 L. J. Ch. 44; 31 W. R. 55). The landlord would then, it is submitted, be liable to pay the sub-lessee compensation for his improvements, as a claim for compensation is a right *in rem* not arising out of contract, which is not affected by the disclaimer (see judgment of JAMES, L. J., in WALTON, *e.p.*, *supra*).

Bankruptcy of lessee.

Where there is no under-lease, on a disclaimer by a trustee in bankruptcy of the interest of the tenant, this sect. would come into operation, and the trustee would be entitled as against the landlord to claim for compensation for improvements.

Set-off under s. 6 against trustee in bankruptcy.

Whether the landlord can set off against such claim of the trustee any sums due for rent in arrear, or damages for breaches of covenant under the lease (as contemplated by sect. 6 of this Act) may be

questionable, as a disclaimer puts an end to the lease and all its provisions, and destroys all benefits to either landlord or tenant arising from covenants under the lease (HART DYKE, *e.p.*, 22 Ch. Div. 410).

It has been held that there is no right of set off where the creditor becomes a debtor to the bankrupt's estate after the bankruptcy, as would be the case as to compensation "on quitting the holding" (see YOUNG, *e.p.*, DAY *in re.*, 27 W. R. 942, 41 L. T. 40;) see also HART DYKE, *e.p.*, MORRISH, *in re.*, 22 Ch. Div., 410, 52 L. T. Ch., 570, where it was held that in respect of breaches of covenant committed by the tenant during his occupation, the remedy of the landlord was to prove for damages in the liquidation, and that he had no right of set off as against moneys due by him to the trustees for severed crops.

Forfeiture.

The tenancy may also be determined by forfeiture of the tenant's interest. Any acts or defaults which give rise to a forfeiture only render the lease voidable at the option of the lessor, and do not give the lessee power to avoid the lease, and if the lessor choose he may waive the forfeiture (DOE *v* BANCKS, 4 B & Ald. 401; DEVONPORT *v* R., L. R. 3 App. Ca. 128, 47 L. J. P. C. 9).

Disclaimer of title.

A disclaimer in writing of the landlord's title by the tenant operates as a forfeiture, and the landlord will be entitled to eject the tenant without any notice to quit (VIVIAN *v* MOAT, 16 Ch. Div. 730; 50 L. J. Ch. 331).

Non-payment of rent or breach of covenant.

A tenant's interest may also be forfeited for non-payment of rent, or for breaches of covenant in a lease. Sect. 14 of the Conveyancing Act, 1881, prohibits the right of entry on forfeiture for a breach of any covenant or condition in a lease other than on the breach of a covenant against assigning or underletting, or of a condition for forfeiture on bankruptcy or taking in execution of the lessee's interest, or for a breach of certain conditions in mining leases, until notice has been served on the lessee specifying the breach and requiring that it shall be remedied, and requiring the lessee to make compensation in money for the breach, and the lessee has failed to comply with these demands.

Basis on which compensation is calculated.

The value of the improvement to an incoming tenant—It is submitted that where an improvement is due to good farming only, it ought not to be matter for compensation, and that valuers ought to construe this sect. so as not to give compensation to a tenant who has merely farmed, as he was bound to do according to the rules of good husbandry, but only when he has done something over and above that.

Fair and reasonable compensation. S. 5.

According to the limits laid down by the Agricultural Holdings Act, 1875, which were calculated by outlay, the improvements in Parts 1 and 2 would be deemed to be exhausted at the end of twenty years from the year in which the outlay was made (except Nos. 2 and 14, which were not included in the Schedule to that Act); the improvements in Part 3, Nos. 16–21, at the end of seven years, and those numbered 22 and 23 at the end of two years. It will be useful to bear this in mind, in dealing with the provisions of sect. 5, as the Act of 1875 may prove a useful guide to fair and reasonable agreements, and looking to the difficulties raised by the provisions of sect. 17, [see pp. xvii.-xix.] it will always be well for a landlord to frame his agreement according to some standard which a valuer cannot quarrel with.

Inherent capabilities.

The "inherent capabilities of the soil" may mean anything or nothing. If a railway comes near a farm and doubles the rental value, is this due to the "inherent capabilities," or is the tenant to be compensated for his good fortune? Beyond evidence of outlay, rental is practically the only means of arriving at a conclusion as to value, and rental might be very much affected by such a matter. This proviso will probably lead to considerable litigation.

Valuations for mortgage or purchase.

Valuations for mortgage or purchase will be conducted under some difficulty, as it will not be to the interest of either landlord or tenant to give any information as to the compensation due, and it will not be possible by enquiry to find what claims may have to be met.

As to Improvements executed before the Commencement of Act.

Restriction as to improvements before Act. p. xiii.

2. Compensation under this Act shall not be payable in respect of improvements executed before the commencement of this Act, with the exceptions following, that—

(1.) Where a *tenant* has within ten years before the commencement of this Act made an improvement mentioned in the third part of the First Schedule hereto, and he is not entitled under any contract, or custom, or under the Agricultural Holdings (England) Act, 1875, to compensation in respect of such improvement; or

38, 39 Vict. c. 92.

(2.) Where a *tenant* has executed an improvement mentioned in the first or second part of the said First Schedule within ten years previous to the commencement of this Act, and he is not entitled under any contract, or custom, or under the Agricultural Holdings (England) Act, 1875, to compensation in respect of such improvement, and the *landlord* within one year after the commencement of the Act declares in writing his consent to the making of such improvement, then such *tenant* on quitting his *holding* at the *determination of a tenancy* after the commencement of this Act, may claim compensation under this Act in respect of such improvement in the same manner as if this Act had been in force at the time of the execution of such improvement.

Form 6.

Improvements not taking immediate effect.

Within ten years, &c.—This limitation acts in two ways, it prevents the tenant from taking the benefit of an improvement in part 3, such as clay burning which lasts for a long time, and then claiming for it, and it operates to give tenants compensation for improvements in parts 1 and 2 which do not take immediate effect, such as the laying down of permanent pasture which may not bring in a return until after the time of quitting the holding.

Under any contract—As the section is excluded by "any contract" any benefit given in consideration of the improvement, such as a

waiver of breach of covenant, or reduction of rent, would probably be held to exclude this section. See sects. 5 and 6.

Determination of a Tenancy after the commencement of this Act. See notes to ss. 1 and 33.—The effect of these words, coupled with definition of "determination of a tenancy" in sect. 61, is that a yearly tenant, whose tenancy determines after January 1st, 1884, whether the notice to quit was given before or after that date, is entitled to compensation.

As to Improvements executed after the Commencement of Act.

Consent of landlord as to improvement in First Schedule, Part I. p. xv.

Form 6.

3. Compensation under this Act shall not be payable in respect of any improvement mentioned in the first part of the First Schedule hereto, and executed after the commencement of this Act, unless the *landlord*, or his agent duly authorised in that behalf, has, previously to the execution of the improvement and after the passing of this Act, consented in writing to the making of such improvement, and any such consent may be given by the *landlord* unconditionally, or upon such terms as to compensation, or otherwise, as may be agreed upon between the *landlord* and the *tenant*, and in the event of any agreement being made between the *landlord* and the *tenant*, any compensation payable thereunder shall be deemed to be substituted for compensation under this Act.

This clause practically leaves parties much upon the same footing as they were before the Act.

See notes to sects. 30 and 42, as to the rights of limited owners under the Settled Land Act.

Deemed to be substituted. See p. xvii. and notes to sect. 24.

Notice to landlord as to improvement in First Schedule, Part II. p. xv.

Form 8.

Form 7.

4. Compensation under this Act shall not be payable in respect of any improvement mentioned in the second part of the First Schedule hereto, and executed after the commencement of this Act, unless the *tenant* has, not more than three months and not less than two months before beginning to execute such improvement given to the *landlord*, or his agent duly authorised in that behalf, notice in writing of his intention so to do, and of the manner in which he proposes to do the intended work, and upon such notice being given, the *landlord* and *tenant* may agree on the terms as to compensation or otherwise on which the improvement is to be executed, and in the event of any such agreement being made, any compensation

Form 9.

payable thereunder shall be deemed to be substituted for compensation under this Act, or the *landlord* may, unless the notice of the *tenant* is previously withdrawn, undertake to execute the improvement himself, and may execute the same in any reasonable and proper manner which he thinks fit, and charge the *tenant* with a sum not exceeding five pounds per centum per annum on the outlay incurred in executing the improvement, or not exceeding such annual sum payable for a period of twenty-five years as will repay such outlay in the said period, with interest at the rate of three per centum per annum, such annual sum to be recoverable as rent. In default of any such agreement or undertaking, and also in the event of the *landlord* failing to comply with his undertaking within a reasonable time, the *tenant* may execute the improvement himself, and shall in respect thereof be entitled to compensation under this Act.

Form 7.

The *landlord* and *tenant* may, if they think fit, dispense with any notice under this section, and come to an agreement in a lease or otherwise between themselves in the same manner and of the same validity as if such notice had been given.

Drainage.

Second part of the Schedule hereto—This deals only with drainage. Drainage is not defined. It may be difficult sometimes to say whether cleaning out and renewing old drains, where the tenant is not under covenant to repair, may be called drainage. Strictly speaking the Act only contemplates the making of new drains.

Notice.

Notice in writing—The notice need not specify anything more than the rough particulars of the work to be done. The tenant is not bound to estimate the cost, and he had better not do so. The Act does not say when the notice is to be given, so that it may possibly be given before the Act; but unless a tenant is very anxious to drain at once, he will avoid giving notice before January 1st, 1884, and so keep clear of questions as to the validity of his notice.

Unless the notice of the tenant—These words are only inserted to prevent the tenant being absolutely bound by his notice, if the landlord elects to do the work. If, after notice, the landlord elects to drain, he will not be bound by the notice, but may improve on the particulars contained in it, and charge a percentage on the whole amount.

Drainage by agreement.

Upon such notice . . may agree—The agreement need not be "fair and reasonable," as either party has a check upon the other, the tenant having power to drain, and the landlord to give notice to quit. By the last paragraph the parties may exclude the Act. See clauses 9, 18 and 11a, pp. 53, 54 and 59.

The improvement is to be executed—The Act means "executed by the tenant" as the section provides, as an alternative, that the landlord may execute the improvement himself, and regulates the terms on

which he may do so. If the landlord wish to do the drainage himself he must either exclude the Act by agreement under the last paragraph or charge the percentage allowed by the section.

Not exceeding five per cent.—There is no limit as to the time during which this may be charged. In practice the tenant would be very unwilling to pay interest after the life of the drain had expired, and on a change of tenancy the interest would merge in rent. An additional difficulty is created by sect. 29, which prevents a limited owner from charging the land beyond the time when the improvement is taken to be exhausted. It will require a much higher rate than £5 per cent. to recoup principal and interest within such time, and yet the landlord might not be able to avail himself of the 25 years' term. It certainly seems unjust that, while the tenant's compensation is calculated by value, the cost to the landlord should be limited to outlay. Charge by limited owner.

5. Where, in a case of tenancy under a *contract of tenancy* current at the commencement of this Act, any agreement in writing or custom, or the Agricultural Holdings (England) Act, 1875, provides specific compensation for any improvement comprised in the First Schedule hereto, compensation in respect of such improvement, although executed after the commencement of this Act, shall be payable in pursuance of such agreement, custom, or Act of Parliament, and shall be deemed to be substituted for compensation under this Act. Reservation as to existing and future contracts of tenancy. p. xiii.

Where in the case of a tenancy under a *contract of tenancy* beginning after the commencement of this Act, any particular agreement in writing secures to the *tenant* for any improvement mentioned in the third part of the First Schedule hereto, and executed after the commencement of this Act, fair and reasonable compensation, having regard to the circumstances existing at the time of making such agreement, then in such case the compensation in respect of such improvement shall be payable in pursuance of the particular agreement, and shall be deemed to be substituted for compensation under this Act. p. xvii. App. 1. Clause 10.

The last preceding provision of this section relating to a particular agreement shall apply in the case of a tenancy under a *contract of tenancy* current at the commencement of this Act in respect of an improvement mentioned in the third part of the First Schedule hereto, specific compensation for which is not provided by any agreement in writing, or custom, or the Agricultural Holdings Act, 1875. p. xiii.

Current at the commencement of the Act—See as to contracts of tenancy "current at" and "beginning after" the commencement of the Act, sect. 61, and the notes to sect. 33.

Specific compensation, what is.

Specific compensation—The Act does not necessarily mean that the compensation must be ascertained beforehand, but that it must be capable of ascertainment. A reduction of rent, or leave to commit breaches of the covenant or waste, made or given in consideration of the execution of an improvement, and clearly referring to the improvement, would be probably held to be "specific compensation" within the sect., but not such reduction or leave, not referring to the improvement.

A benefit.

How ascertained. p. xvii.

This substituted compensation is payable "in pursuance of such agreement, custom, or Act," and is therefore primâ facie to be ascertained and recovered in a Court of Law. By sect. 17, the provisions of the Act as to reference are so far extended to such agreements as to give the tenant the option of having compensation assessed by the referee, but the sect. gives the referee no power to decide whether the compensation is specific or not within the terms of the present sect.

Particular agreement in writing—These words exclude custom after the commencement of the Act. "Particular" probably only means that if the Act is excluded, it must be excluded expressly and not by implication.

"Fair and reasonable."

Fair and reasonable—It is impossible to define a "fair and reasonable agreement," or to suggest any tests beyond those mentioned on p. xvii. In those counties where the custom provides specific compensation this will probably be held to be fair and reasonable (see remarks on p. xviii). Where no such compensation is provided, some such clause as No. 10 of Form 1, of Appendix 1, and the 2nd Schedule to that appendix, or No. 12a, of Form 2, may be used, or the compensation may be calculated by the Schedules to the Act of 1875. See p. 3.

"Circumstances existing."

The same Court which decides whether or not compensation is fair and reasonable will also decide what is included in "circumstances existing" at the time of executing the agreement. These may be very various, and in some cases involve a mass of evidence, as for instance, if it is contended that a new branch line of railway has increased the value of the holding since the date of the agreement.

See the note on "specific compensation" *supra*, and p. xvii.

The last-mentioned provision, &c.—The meaning of this would appear to be that where there is no agreement providing specific compensation, the landlord and tenant may at once enter into an agreement providing fair and reasonable compensation and so exclude the Act.

Regulations as to Compensation for Improvements.

Regulations as to Compensation for Improvements. pp. xix.-xxi. Form 31.

6. In the ascertainment of the amount of the compensation under this Act payable to the *tenant* in respect of any improvement there shall be taken into account in reduction thereof:

(*a.*) Any benefit which the *landlord* has given or allowed to the *tenant* in consideration of the *tenant* executing the improvement; and

(*b.*) In the case of compensation for *manures* the value of the *manure* that would have been produced by the consumption on the *holding* of any hay, straw, roots, or green crops sold

off or removed from the *holding* within the last two years of the tenancy or other less time for which the tenancy has endured, except as far as a proper return of *manure* to the *holding* has been made in respect of such produce so sold off or removed therefrom; and

(*c.*) Any sums due to the *landlord* in respect of rent or in respect of any waste committed or permitted by the *tenant*, or in respect of any breach of covenant or other agreement connected with the *contract of tenancy* committed by the *tenant*, also any taxes, rates, and tithe rent-charge due or becoming due in respect of the *holding* to which the *tenant* is liable as between him and the *landlord*.

There shall be taken into account in augmentation of the *tenant's* compensation:

(*d.*) Any sum due to the *tenant* for compensation in respect of a breach of covenant or other agreement connected with a *contract of tenancy* and committed by the *landlord*.

Nothing in this section shall enable a *landlord* to obtain under this Act compensation in respect of waste by the *tenant* or of breach by the *tenant* committed or permitted in relation to a matter of husbandry more than four years before the *determination of the tenancy*.

In reduction thereof—See introductory chapter p. xx.

Any benefit—Such as a reduction of rent, a nominal rent on reclamation of waste land, leave to farm arable out of rotation, doing repairs and so on. See pp. xxi., xxii. and notes to sect. 5. What is a "benefit."

It should be noted that the benefit must be "in consideration of the tenant executing the improvement," and must clearly refer to it.

The value of the manure that would have been produced . . a proper return of manure to the holding—Without such incessant over-looking of the farm, as no tenant would stand, and no landlord would be inclined to try, the landlord cannot tell how much hay and straw the tenant has sold off the holding, or how little manure he has brought on. What is "a proper return" to the holding will always be a troublesome question, and this sub-section will hardly be of much value to the landlord. The limitation as to two years is in keeping with the usage on a great many large estates, where the tenant is allowed to sell off anything except in the last years of his tenancy.

In respect of any waste—It is not waste at common law, either wilful or permissive, to leave the land uncultivated (HUTTON *v.* WARREN, 1 M. & W. 466), or to carry off straw and manure from the land (JOHNSON *v.* GOLDSWAINE, 3 Anst. 749). What is waste.

The most common acts of waste "in relation to matters of husbandry" are: ploughing or breaking up ancient meadows (Co. Litt. 53a.], ploughing up strawberry beds (WATHERELL *v.* HOWELLS, 1 Camp. In relation to matters of husbandry.

227), sowing land with mustard seed, flax, or other pernicious crop (PRATT *v.* BRETT, 2 Madd. 62), ploughing up gardens (SIMMONS *v.* NORTON, 7 Bing. 648), cutting down fences (Co. Litt. 53a.). Other acts of waste are cutting timber trees (*ibid.*), opening gravel pits or mines, or digging for lime, clay, or stone (Com. Dig. Waste D. 4), draining ponds, not repairing banks against rivers (Co. Litt. 53a.), and pulling down buildings (*ibid.*)

Permissive waste.

There is also permissive waste, such as allowing building to fall out of repair. A tenant at will is not liable for permissive waste, and it is questionable if a tenant from year to year is so outside the term of his tenancy (HARNETT *v.* MAITLAND, 16 M. and W. 257. 16 L. J. Exch 134).

No personal liability for tithe rent charge.

Tithe rent charge—The remedy for tithe rent charge is against the land. No person is personally liable for it, but the offgoing tenant may be sued by the landlord or incoming tenant who has been compelled to pay it. (14-15 Vict. c. 25, sect. 4. GRIFFENHOOFE *v.* DAUBUZ, 4 E. and B. 320. 24 L. J. Q. B. 20.)

Concurrent remedies in the High Court.

More than four years—The Act only limits the right to compensation for waste "*under this Act*," so that it leaves the landlord free to commence an action in the High Court, if he pleases, concurrently with his remedies under this Act. A landlord will probably find it more to his advantage to overlook his farm once every three years from the time when the tenant entered. Then if the tenant is unsatisfactory, he can give him notice to quit, and set off the full amount of any waste in relation to a matter of husbandry.

Procedure.

Notice of intended claim. pp. xxii., xxviii.

7. A *tenant* claiming compensation under this Act shall, two months at least before the *determination of the tenancy*, give notice in writing to the *landlord* of his intention to make such claim.

Form 11.

Where a *tenant* gives such notice, the *landlord* may, before the *determination of the tenancy*, or within fourteen days thereafter, give a counter-notice in writing to the *tenant* of his intention to make a claim in respect of any waste or any breach of covenant or other agreement.

Form 12.

Every such notice and counter-notice shall state, as far as reasonably may be, the particulars and amount of the intended claim.

Claim under custom, &c.

Shall not be entitled to compensation under this Act—As he would not be so entitled unless he gave the proper notices, and gave them in time, he might claim by sect. 57 under custom, agreement, or the Agricultural Holdings Act, 1875.

Set off and counterclaim.

The landlord may . . make a claim—The landlord can by sect. 6 *set off* against the tenant's claim any benefit in consideration of the improvement, the value of manures produced by crops sold off, arrears of rent, rates and taxes, and so on; but he may *make a claim* under this section for waste or a breach of covenant or agreement. This, it is presumed, means that such claim and set off differ like a counterclaim and set off in the High Court. The set off only goes as far as the tenant's claim; and if the tenant's claim falls through, the set off falls through with it; but if the counterclaim overtops the claim, the

tenant must pay the difference; or if the tenant's claim falls through, or he withdraws it, the landlord may go on with the reference, and obtain compensation. It may be doubtful whether any notice is necessary for a mere set off under sect. 6 for any of the matters not specified in sect. 7, but it will always be best to make one.

As far as reasonably may be . . —These words ought not to prevent an increase of the claim afterwards, if the claimant finds that he has estimated it too low, but they will be sufficient to prevent a party from setting up an entirely fresh claim before the referee in respect of other matters.

A sum must be specified.

The party claiming must, it should be noticed, claim a specific sum in respect of compensation. No right of appeal is given by sect. 23, unless the "sum claimed" exceeds £100: this it is submitted refers to each party's original claim only, and not to the sum total of the claims both of landlord and tenant.

The limitation "as far as reasonably may be" may very likely encourage parties to prefer all kinds of bolstered up claims by means of an ambiguous notice for which there is not evidence, in the hope of a compromise, where, in the absence of the words, there would be no reference at all.

Compensation agreed or settled by reference. p. xxx. Form 13.

8. The *landlord* and the *tenant* may agree on the amount and mode and time of payment of compensation to be paid under this Act.

See note to sect. 24.

Appointment of referee or referees and umpire. pp. xxx.-xxxiii. Form 17.

9. Where there is a reference under this Act, a referee, or two referees and an umpire, shall be appointed as follows:—

(1.) If the parties concur, there may be a single referee appointed by them jointly:

Forms 17, 19.

(2.) If before award the single referee dies or becomes incapable of acting, or for seven days after notice from the parties, or either of them, requiring him to act, fails to act, the proceedings shall begin afresh, as if no referee had been appointed:

Form 17.

(3.) If the parties do not concur in the appointment of a single referee, each of them shall appoint a referee:

Forms 17, 19.

(4.) If before award one of two referees dies or becomes incapable of acting, or for seven days after notice from either party requiring him to act, fails to act, the party appointing him shall appoint another referee:

Form 18.

(5.) Notice of every appointment of a referee by either party shall be given to the other party:

Form 18.

(6.) If for fourteen days after notice by one party to the other to appoint a referee, or another

referee, the other party fails to do so, then, on the application of the party giving notice, the *county court* shall within fourteen days appoint a competent and impartial person to be a referee:

Forms 32, 33.

(7.) Where two referees are appointed, then (subject to the provisions of this Act) they shall before they enter on the reference appoint an umpire:

Form 27.

(8.) If before award an umpire dies or becomes incapable of acting, the referees shall appoint another umpire:

Form 27.

(9.) If for seven days after request from either party the referees fail to appoint an umpire, or another umpire, then, on the application of either party, the *county court* shall within fourteen days appoint a competent and impartial person to be the umpire:

Form 23.

Forms 32-33.

(10.) Every appointment, notice, and request under this section shall be in writing.

Single referee.

Sub-sect. (1)—The single referee will proceed to the reference without anything further being done under this section.

"Acting."

Sub-sect. (2)—"Acting" on the part of a referee will probably be the first proceeding which he takes, such as appointing a day for a hearing, or enlarging his time for delivering the award.

Summons in County Court for appointment of referee or umpire.

Sub-sect. (6)—Order 34 r. 7 of the County Court Rules, 1875 (issued under the Agricultural Holdings Act, 1875, of which this section was part) provides that every application for the appointment of a referee or umpire shall be by summons, sealed with the seal of the court, and returnable not less than seven days from the date thereof except by consent. The summons shall be taken out by the party applying, and shall be addressed to the other party, and shall direct the party summoned to attend at the judge's or registrar's chambers (as the case may be) on the return day thereof, for the purpose of proceeding with the appointment asked for. The summons shall be personally served by the applicant's solicitor. The appointment may be made by endorsement on the summons.

Sub-sect. (7)—"Subject to the provisions of this Act." See sect. 10.

Sub-sect. (8)—It will be noticed that the Act does not provide for the contingency of the umpire failing to act.

Sub-sect. (9)—See note to sub-sect. (6).

Requisition for appointment of umpire by Land Commissioners, &c. p. xxxii.

10. Provided that, where two referees are appointed, an umpire may be appointed as follows:

Forms 24, 25, 26.

(1.) If either party, on appointing a referee, requires, by notice in writing to the other, that the umpire shall be appointed by the Land Commissioners for England, then the umpire, and any successor to him, shall be

appointed, on the application of either party, by those Commissioners.

(2.) In every other case, if either party on appointing a referee requires, by notice in writing to the other, that the umpire shall be appointed by the *county court*, then, unless the other party dissents by notice in writing therefrom, the umpire, and any successor to him, shall on the application of either party be so appointed, and in case of such dissent the umpire, and any successor to him, shall be appointed on the application of either party, by the Land Commissioners for England.

Sub-sect. (1) *on appointing a referee*—The appointment of a referee is a condition precedent to such a requisition, and notice can only be given on such appointment.

Sub-sect. (2)—There is no date for the dissent.

Exercise of powers of County Court.

11. The powers of the *county court* under this Act relative to the appointment of a referee or umpire shall be exerciseable by the judge of the court having jurisdiction, whether he is without or within his district, and may, by consent of the parties, be exercised by the registrar of the court.

By consent—Such consent should be expressed on the summons.

Mode of submission to reference. p. xxxi.

Forms 20, 21.

12. The delivery to a referee of his appointment shall be deemed a submission to a reference by the party delivering it; and neither party shall have power to revoke a submission, or the appointment of a referee, without the consent of the other.

Power for referee, &c., to require production of documents, administer oaths, &c. p. xxxiii.

Form 30.

13. The referee or referees or umpire may call for the production of any sample, or voucher, or other document, or other evidence which is in the possession or power of either party, or which either party can produce, and which to the referee or referees or umpire seems necessary for determination of the matters referred, and may take the examination of the parties and witnesses on oath, and may administer oaths and take affirmations: and if any person so sworn or affirming wilfully and corruptly gives false evidence he shall be guilty of perjury.

Which is in the possession or power—This limitation considerably narrows the value of this section, as, unless samples, vouchers, and documents, are kept by the parties, the referee may call in vain for the production of them. See pp. xxv, xxxiii, and App. 1, clauses 16 & 8a.

Power to proceed in absence.

Form 29.

14. The referee or referees or umpire may proceed in the absence of either party where the same appears to him or them expedient, after notice given to the parties.

Form of award pp. xxxiv. xxxv, 17.

Form 31.

15. The award shall be in writing, signed by the referee or referees or umpire,

The referee should be very careful in making his award, as a mistake once made cannot be altered when the award is executed. (MORDUE *v.* PALMER, L.R., 6 Ch. 22: 40 L. J. Ch. 1.)

The only remedy in such a case is by appeal to the County Court to impeach the award as invalid, and this can only be done when the sum claimed is over £100. The Court will then amend the award, or remit it to be amended. See notes to sects. 17 and 23.

The award must be stamped at the rate of 3d. for every £5 up to £200; under £500, 15s.; under £750, £1; under £1,000, £1 5s.; and above £1,000, £1 15s.

Time for award of referee or referees. p. xxxiii.

Form 22.

16. A single referee shall make his award ready for delivery within twenty-eight days after his appointment.

Two referees shall make their award ready for delivery within twenty-eight days after the appointment of the last appointed of them, or within such extended time (if any) as they from time to time jointly fix by writing under their hands, so that they make their award ready for delivery within a time not exceeding in the whole forty-nine days after the appointment of the last appointed of them.

Award in respect of compensation under ss. 3, 4, 5. pp. xvii, xix.

17. In any case provided for by sections 3, 4, or 5, if compensation is claimed under this Act, such compensation as under any of those sections is to be deemed to be substituted for compensation under this Act, if and so far as the same can, under the terms of the Agreement, if any, be ascertained by the referees or the umpire, shall be awarded in respect of any improvements thereby provided for, and the award shall, when necessary, distinguish such improvements and the amount awarded in respect thereof; and an award given under this section shall be subject to the appeal provided by the Act.

If and so far as the same can—The section, which is by no means clear, is discussed on pp. xvii.-xix. *supra*. The most reasonable construction would be that the section would only apply when the substituted agreement provides no *mode of assessing* compensation, such as clauses 29 and 13a *infra*. But where there is an agreement providing compensation and a mode of assessing it, there seems to be nothing to prevent the tenant from claiming under the Act, or the referee from making an award, and in doing so deciding on the fairness of the compensation agreed upon, or upon the application of the Act to the holding. In such a case the landlord would seem to have no remedy unless the sum was above £100 in which case he could appeal under sect. 23, subs. (2), or unless the last paragraph is to be read "subject in all cases to an appeal." Perhaps the validity of the award might be questioned on a summons under sect. 24.

Reference to and award by umpire. p. xxxiv.

18. Where two referees are appointed and act, if they fail to make their award ready for delivery within the time aforesaid, then, on the expiration of that time, their authority shall cease, and thereupon the matters referred to them shall stand referred to the umpire.

Form 28.

The umpire shall make his award ready for delivery within twenty-eight days after notice in writing given to him by either party or referee of the reference to him, or within such extended time (if any) as the registrar of the *county court* from time to time appoints, on the application of the umpire or of either party, made before the expiration of the time appointed by or extended under this section.

Forms 35, 36.

Twenty-eight days after—Exclusive of the day on which matters were referred (*Re* HIGHAM, 9 Dowl 203.)

Application of the umpire, &c.—The application must be by summons in chambers. The Act does not fix any limit to extension of time by the Registrar.

Award to give particulars. pp. xxxiv., 19.

19. The award shall not award a sum generally for compensation, but shall, so far as possible specify—

Form 31.

(*a.*) The several improvements, acts, and things in respect whereof compensation is awarded, and the several matters and things taken into account under the provisions of this Act in reduction or augmentation of such compensation;

(*b.*) The time at which each improvement, act, or thing was executed, done, committed, or permitted;

(*c.*) The sum awarded in respect of each improvement, act, matter, and thing; and

(*d.*) Where the *landlord* desires to charge his estate with the amount of compensation found due to the *tenant*, the time at which, for the purposes of such charge, each improvement, act, or thing in respect of which compensation is awarded is to be deemed to be exhausted.

See p. xxxiv., ss. 20, 21, and notes to sect. 23.

Costs of reference. pp. xxviii, xxxiii.

20. The costs of and attending the reference, including the remuneration of the referee or referees and umpire, where the umpire has been required to act, and including other proper expenses, shall be borne and paid by the parties in such proportion as to the referee or referees or umpire appears just, regard being had to the reasonableness or unreasonableness of the claim of either party in respect of amount or otherwise, and to all the circumstances of the case.

Form 31.

The award may direct the payment of the whole or any part of the costs aforesaid by the one party to the other.

The costs aforesaid shall be subject to taxation by the registrar of the county court, on the application of either party, but that taxation shall be subject to review by the judge of the county court.

Costs.

Other proper expenses—The propriety of the expenses will be matter for the Registrar, and Judge of the County Court. It is unfortunate that this is so, for a Registrar or County Court Judge is not perhaps the person best qualified to decide upon the necessity for the production of samples, and the attendance of witnesses, even if he were to go into the facts as carefully as the referee has done.

Day for payment. p. xxxv.

21. The award shall fix a day, not sooner than one month after the delivery of the award, for the payment of money awarded for compensation, costs or otherwise.

Form 31.

Submission not to be removable, &c. p. xxxv.

22. A submission or award shall not be made a rule of any court, or be removable by any process into any court, and an award shall not be questioned otherwise than as provided by this Act.

See notes to sects. 15 and 23.

23. Where the sum claimed for compensation exceeds £100, either party may, within seven days after delivery of the award, appeal against it to the judge of the *county court* on all or any of the following grounds :

Appeal to county court p. xxxv.

(1.) That the award is invalid ;

(2.) That the award proceeds wholly or in part upon an improper application of or upon the omission properly to apply the special provisions of sections 3, 4, or 5 of this Act ;

Form 37.

(3.) That compensation has been awarded for improvements, acts, or things, breaches of covenants or agreements, or for committing or permitting waste, in respect of which the party claiming was not entitled to compensation ;

Forms 38 (a) (b) 39.

(4.) That compensation has not been awarded for improvements, acts, or things, breaches of covenants or agreements, or for committing or permitting waste, in respect of which the party claiming was entitled to compensation ;

and the judge shall hear and determine the appeal, and may, in his discretion, remit the case to be reheard as to the whole or any part thereof by the referee or referees or umpire, with such directions as he may think fit.

If no appeal is so brought, the award shall be final.

The decision of the judge of the *county court* on appeal shall be final, save that the judge shall, at the request of either party, state a special case on a question of law for the judgment of the High Court of Justice, and the decision of the High Court on the case, and respecting costs and any other matter connected therewith, shall be final, and the judge of the *county court* shall act thereon.

The "sum claimed." p. xxxv.

Sum claimed for compensation exceeds £100.—If the claim comes anywhere near this sum it will probably be increased so as to reserve the right of appeal. The appellant has, however, only seven days in which to consider about appealing. By section 7 the amount claimed must be stated in the notice. It is submitted that the "sum claimed" means the sum claimed by either party in the first instance, and not the aggregate of all sums claimed by both parties or the sum claimed by the tenant only.

Delivery of the award—Delivery, it is to be presumed, to the person appealing.

Practice on appeal to the county court.

Either party may appeal—This section (with the exception of subs. 2), is a re-enactment of s. 36 of the Agricultural Holdings (England) Act, 1875. It was, with other sections of the Act of 1875, originally incorporated in the present Act merely by reference to the Act of 1875; but in deference to a generally expressed opinion in committee that such a course would be objectionable, the Government renumbered the sections and embodied the whole in one Act. Order xxxiv., rr. 1-8, of the County Court Rules, 1875, which provide for the procedure on appeal, will apply to this re-enacted section.

The practice is the same as in an ordinary action with the following exceptions:—

By r. 1, the party prosecuting the appeal is called the appellant; the party supporting the award the respondent.

Grounds of appeal.

Form 37.

By r. 2 the appellant shall within four days after the delivery of the award file a copy thereof (there must be as many copies as there are parties, and an additional copy for the judge, Pitt-Lewis C.C. Pract., p. 1028), together with a concise statement in writing of his grounds of appeal, which shall contain the following particulars:—

(1.) If the appeal shall be made on the ground mentioned in sect. 36, subsect. 1, of the Agricultural Holdings (England) Act, 1875, (*i.e.*, subsect. 1 of the present section) a statement of the several objections to the validity of the award on which he relies.

(2.) If the appeal is on any of the grounds mentioned in subsect. 3 of the last-mentioned section, a statement showing in respect of what matters compensation is alleged to have been improperly awarded.

(3.) If the appeal is made on any of the grounds mentioned in subsect. 4 of the last-mentioned section, a statement shewing in respect of what matters compensation is alleged to have been improperly withheld.

(4.) No ground of appeal shall be allowed at the trial unless the foregoing provision of this rule, shall, in respect of such ground, have been complied with.

(5.) The names, in full, and address of the respondent and of the appellant, and of his solicitor, if the proceedings are commenced through a solicitor.

Copies to be sent to respondent.

Form. 38.

By r. 3, the registrar shall, within 24 hours after the filing of the concise statement, transmit a copy thereof by post to every respondent at the address furnished to him, accompanied by a notice requiring the respondent to comply with the provisions of the next following rule according to the form in the schedule (Form 38 *infra.*)

Statement by respondent.

Form 38 (b.)

By r. 4, the respondent shall, within eight days after the transmission of the grounds of appeal to him, deliver to the registrar a statement in writing, signed by himself or his solicitor, disclosing the matters required by the notice.

Order on appeal.

By r. 5, the judge shall hear and determine the appeal, and the order thereupon may be enforced in the same manner as any other judgment of the court.

Copies to be sent to judge.

By r. 6, upon receipt of the statement mentioned in r. 4, the registrar shall transmit a copy thereof, and of the award and grounds of appeal, to the judge, who shall, as soon as conveniently may be, appoint a time and place for the hearing of the appeal, and instruct the registrar to give notice thereof, forthwith, to the parties.

Case for Supreme Court.

By r. 8, all rules for the time being in force regulating the conduct of appeals by way of special case, shall apply to appeals from the judge to the High Court of Justice so far as circumstances will permit.

It is contrary to all precedent to allow an appeal against an award made by arbitrators chosen by the parties, but under this section the parties, even if they have agreed upon their umpire can appeal.

To the Judge of the County Court.—This would seem to exclude the right to call for a Jury.

An improper application.—See pp. xvii-xix and the notes to sect. 17. It will be a matter entirely in the discretion of the referee whether he awards compensation under a substituted agreement, or whether he refuses to make an award on the ground that he cannot ascertain compensation consistently with the terms of the agreement. Where there is any specific compensation provided by the agreement, and any arbitration clause, this latter would appear to be the proper course for the referee to take. If there is no arbitration clause, he will assess the compensation due under the agreement by his award, in the manner provided by the Act.

When award is invalid.

That the award is invalid—The award, generally speaking, will be invalid, if it goes beyond the submission (*Redman on Arbitration*, page 110); if it does not decide all the points submitted (unless the terms of the submission shew that the parties did not intend every point to be decided by the referee, WRIGHTSON *v.* BYWATER, 3 M & W 199, L.J. 7, Exch., 83), that is to say, if it is not a complete determination of all the matters submitted by the parties to the referee or umpire, but is uncertain, or not final or impossible; if the amount is uncertain, as for instance, if the referee ordered the payment of arrears of rent without saying how much the arrears were; if the award upon the face of it shews a plain mistake (CORNFORTH *v.* GEER, 2 Vern: 705).

If the award is bad in part and good in part, and the parts can be separated, the good part may be enforced (DOE *v.* COX, 15 L.J. Q B. 317; 11 Jur., o.s., 991; 4 Dowl & L. P.C. 75).

If the referee give his reasons and they are wrong ones, his award will very possibly be upset (per Wilde, C. J., TOBY *v.* LOVIBOND, 17 L.J. C.P. 202; 12 Jur., o.s., 436).

Shall hear and determine . . and may . . remit—The Court must hear the case and determine the points in dispute. It may then, if it thinks fit, remit the case to the referees or umpire to make a further award. But the Court may also make an award itself on the hearing instead of remitting to the referees. Such a power is to be regretted, as it will involve examination of scientific witnesses and the re-opening of the whole matter at great expense. Unless the Court chooses to decide upon the unsupported testimony of landlord and tenant, the referees must be examined to ascertain how they arrived at their conclusions.

Recovery of compensation.

p. xxxvi.

Form 39.

24. Where any money agreed or awarded or ordered on appeal to be paid for compensation, costs, or otherwise, is not paid within fourteen days after the time when it is agreed or awarded or ordered to be paid, it shall be recoverable, upon order made by the judge of the *county court*, as money ordered by a *county court* under its ordinary jurisdiction to be paid is recoverable.

Or otherwise—The words "by sect. 8" must be read in here. The Act can never have contemplated that money agreed to be paid under a

substituted agreement under sects. 3, 4 or 5, should be recoverable in the county court if not paid within fourteen days. Such compensation is payable in pursuance of the agreement. The word "agreed" in this section evidently refers to an agreement under sect. 8, which would be an agreement for "compensation under the Act."

Where, however, compensation has been improperly assessed under sect. 17, it may be questioned, whether the landlord may not raise questions as to the validity of the award on an application for an order under this section.—*See notes to sect.* 17.

Within fourteen days—The fourteen days will run from the date of the agreement between the parties under sect. 8, or from the date when the award is delivered to the party sought to be charged. "After the time when it is awarded," can hardly mean from the date of the award, as hardship might occur if the referee did not notify the award to the parties charged. The time limited for payment is very short, and if the incoming tenant pays the valuation, the provisions of the section may lead to some inconvenience.

As money ordered by a county court, &c.—See, however, the provisions of sect. 31.

Money ordered by a county court under its ordinary jurisdiction to be paid is recoverable by (1) execution against the goods of the debtor, by (2) commitment under a judgment summons, and by (3) attachment of debts under a garnishee order.

Proceedings under this section.

A summons would in most cases appear to be necessary under this section for an order on which to ground the execution, as the section says that the sum shall be recoverable only "upon order made by the judge of the county court."

The ordinary form of summons on a plaint for a liquidated sum will, therefore, be applicable to every such case, except the case where the money is ordered to be paid on appeal. In this latter case, the warrant of execution will be grounded on the order of the court.

Application by a person not a party.

When the application is made by some person not a party to the action, an order must be obtained upon summons for payment. The leave of the registrar must then be obtained before the execution can issue. Order 15 rr. 5-8 of the County Court Rules, 1875, provides for recovery by, and proceedings against, survivors, persons not parties to the action, and representatives of a deceased person. And see forms in Pitt-Lewis's County Court Pract., No. 136 *et seq.*

The order may be an order charging the estate with the payment.

Appointment of guardian.

p. xxviii.

Forms 34, 36.

25. Where a *landlord* or *tenant* is an infant without a guardian, or is of unsound mind, not so found by inquisition, the *county court*, on the application of any *person* interested, may appoint a guardian of the infant or *person* of unsound mind for the purposes of this Act, and may change the guardian if and as occasion requires.

Costs.

On the application of any person interested—No provision is made for the costs of the person applying. They should be asked for at the hearing of the summons, under sect. 27.

Provisions respecting married women.

26. Where the appointment of a *person* to act as the next friend of a married woman is required for

the purposes of this Act, the *county court* may make such appointment, and may remove or change that next friend if and as occasion requires.

A woman married before the commencement of the Married Women's Property Act, 1882, entitled for her separate use to land, her title to which accrued before such commencement as aforesaid, and not restrained from anticipation, shall, for the purposes of this Act, be in respect of land as if she was unmarried.

p. xxviii.
Forms 24, 36.

Where any other woman married before the commencement of the Married Women's Property Act, 1882, is desirous of doing any act under this Act in respect of land, her title to which accrued before such commencement as aforesaid, her husband's concurrence shall be requisite, and she shall be examined apart from him by the *county court*, or by the judge of the *county court* for the place where she for the time being is, touching her knowledge of the nature and effect of the intended act, and it shall be ascertained that she is acting freely and voluntarily.

Costs in county court.

27. The costs of proceedings in the *county court* under this Act shall be in the discretion of the court.

The Lord Chancellor may from time to time prescribe a scale of costs for those proceedings, and of costs to be taxed by the registrar of the court.

pp. xxviii. xxxiii.

See Note to sect. 25.

Service of notice, &c.

28. Any notice, request, demand, or other instrument under this Act may be served on the *person* to whom it is to be given, either personally or by leaving it for him at his last known place of abode in England, or by sending it through the post in a registered letter addressed to him there; and if so sent by post it shall be deemed to have been served at the time when the letter containing it would be delivered in ordinary course; and in order to prove service by letter it shall be sufficient to prove that the letter was properly addressed and posted, and that it contained the notice, request, demand, or other instrument to be served.

p. xxviii.

Charge of Tenant's Compensation.

Power for landlord on paying compensation to obtain charge. pp. xxxvi. xxxvii. Form 40.

29. A *landlord*, on paying to the *tenant* the amount due to him in respect of compensation under this Act, or in respect of compensation authorised by this Act to be substituted for compensation under this Act, or on expending such amount as may be necessary to execute an improvement under the second part of the First Schedule hereto, after notice given by the *tenant* of his intention to execute such improvement in accordance with this Act, shall be entitled to obtain from the *county court* a charge on the *holding*, or any part thereof, to the amount of the sum so paid or expended.

The court shall, on proof of the payment or expenditure, and on being satisfied of the observance in good faith by the parties of the conditions imposed by this Act, make an order charging the *holding*, or any part thereof, with repayment of the amount paid or expended, with such interest, and by such instalments, and with such direction for giving effect to the charge, as the court thinks fit.

See p. 7.

But, where the *landlord* obtaining the charge is not absolute owner of the *holding* for his own benefit, no instalment or interest shall be made payable after the time when the improvement in respect whereof compensation is paid will, where an award has been made, be taken to have been exhausted according to the declaration of the award, and in any other case after the time when any such improvement will in the opinion of the court, after hearing such evidence (if any), as it thinks expedient, have become exhausted.

The instalments and interest shall be charged in favour of the *landlord*, his executors, administrators, and assigns.

The estate or interest of any *landlord* holding for an estate or interest determinable or liable to forfeiture by reason of his creating or suffering any charge thereon shall not be determined or forfeited by reason of his obtaining a charge under this Act, anything in any deed, will, or other instrument to the contrary thereof notwithstanding.

Capital money arising under the Settled Land Act, 1882, may be applied in payment of any moneys expended and costs incurred by a *landlord* under or in pursuance of this Act in or about the execution of any improvement mentioned in the first or second parts of the schedule hereto, as for an improvement authorised by the said Settled Land Act; and such money may also be applied in discharge of any charge created on a *holding* under or in pursuance of this Act in respect of any such improvement as aforesaid, as in discharge of an incumbrance authorised by the said Settled Land Act to be discharged out of such capital money.

45 & 46 Vict. c. 38.

A landlord on paying—See sects. 30, 31 and 56. These words exclude the incoming tenant who pays compensation to the outgoing tenant from charging his payments on the holding. He may himself obtain compensation on quitting.

Checks upon limited owners.

The court shall, &c.—This provision it will be noticed is imperative. It is not very easy to understand to what the "observance in good faith" and so on, refers. But it is probably meant to be a check to prevent limited owners from obtaining money from a land company under sect, 32 for compensation which has never been paid. In such case, proof of the consent and notice required by sects. 3 and 4 and of the due execution and unexhausted value of the improvement (if there has been no award), will be necessary before the court will charge the holding.

Powers of sale &c.

Direction for giving effect to the charge—such as a power of sale. In addition to the powers of distress and entry conferred by the Land Improvement Act, 1864, sect. 3, a land company having a charge for drainage works executed by them upon glebe lands belonging to a rectory, were held entitled to sell the glebe to pay the arrears of the charge. (SCOTTISH WIDOWS' FUND *v.* CRAIG, 20 Ch. Div. 208; 51 L.J. Ch. 363.) This would appear to be the most reasonable course to take when the charge is in arrear, as no tenant would be found to take lands with the liability of distress for the charge in arrear.

Hardship on the clergy.

The Act may create a great hardship on those clergy whose sole endowment is glebe lands. If times are bad and rents fall the glebe may be sold by the mortgagee to pay the charges, and thus the endowment will be lost to the incumbency.

By sect. 39 however, "the powers by this Act conferred," which it is presumed includes the power of charging the holding with sums paid for compensation, shall not be exercised by an incumbent landlord except with the previous approval in writing of the Governors of Queen Anne's Bounty. *In every such case* the Governors may, *if they think fit*, advance the money to pay compensation, and take a charge on the holding themselves.

Limited owners.

Where the landlord . . . is not absolute owner—With respect to drainage, see note to sect. 5 "*not exceeding five per cent.*, &c." A landowner entitled in fee will obtain no benefit by a charge. A life tenant or other limited owner may obtain a charge in his own favour, in which case if he die his representatives may continue to take

the benefit of the charge, or he may recoup himself his capital by mortgaging the land under sect. 32, and then if he die the remainderman will bear part of the cost. This part of the section is for the benefit of the remaindermen, as it prevents the life-owner from recouping himself entirely at the expense of the estate, by limiting the number of years over which the instalments are to be spread.

Mortgagees.

Charges will of course rank in order of time. Where land is in mortgage, the rights of mortgagees are preserved by sect. 30, limiting the charge to the interest of the landlord and to interests subsequent to that of the landlord.

Charge of incumbrance on other part of land.

By sect. 5 of the Settled Land Act, 1882, it is enacted that, "Where on a sale exchange or partition there is an incumbrance affecting the land sold or given in exchange or on partition, the tenant for life with the consent of the incumbrancer, may charge that incumbrance on any other part of the settled land, whether already charged therewith or not, in exoneration of the part sold or so given, and, by conveyance of the fee simple, or other estate or interest the subject of the settlement, or by creation of a term of years in the settled land, make provision accordingly."

Arising under the Settled Land Act.—This section practically only increases the number of improvements to which sects. 25-29 of the Settled Land Act apply, by adding to sect. 25 of that Act, the making of silos and the laying down of permanent pasture. See sect. 42.

Incidence of charge.

p. xxxvii.

30. The sum charged by the order of a *county court* under this Act shall be a charge on the *holding*, or the part thereof charged, for the *landlord's* interest therein, and for all interests therein subsequent to that of the *landlord;* but so that the charge shall not extend beyond the interest of the *landlord*, his executors, administrators, and assigns, in the tenancy where the *landlord* is himself a *tenant* of the *holding.*

All interest subsequent to that of the landlord—i.e. subsequent in order of time and inferior to the landlord's interest. The Act, by making the charge bind only subsequent interests, saves the rights of mortgagees and other persons having interests superior to the landlord, whilst it will extend to bind the land in the hands of a subsequent mortgagee or purchaser. An intending purchaser or mortgagee of Agricultural Holdings will therefore have to make searches for charges in the county court as an additional expense to his purchase.

Searches for charges by purchaser.

Underleases.

Where the landlord is himself a tenant—i.e., where a tenant underleases, and the underlessee obtains compensation from the tenant, who charges it upon his holding. Though the executors or administrators of the deceased tenant and the assignee of his interest will take it burdened with the charge, such a charge will not bind the underlessee's interest.

Who are assigns.

Assigns—The word "Assigns" is a term of well-known signification, comprehending all those who take either immediately or remotely from or under the assignor, whether by conveyance, devise, descent or act of law.—BAILY *v.* DE CRESPIGNY, L.R. 4 Q.B. 180; 38 L.J. Q.B. 100; 19 L.T. (O.S.) 618.

A trustee in bankruptcy is probably included in the word "Assigns,"

as he might disclaim the tenant's interest if the charge was onerous. (By sect. 61 *tenant* includes trustee in bankruptcy of a tenant.) But with this and like exceptions it is presumed that the Act means "voluntary assigns," and not assigns thrust upon him by Act of Parliament, such as a company taking land under compulsory powers —BAILY *v.* DE CRESPIGNY, *supra.*

Provision in case of trustee.

p. xxxvi.

31. Where the *landlord* is a *person* entitled to receive the rents and profits of any *holding* as trustee, or in any character otherwise than for his own benefit, the amount due from such *landlord* in respect of compensation under this Act, or in respect of compensation authorised by this Act to be substituted for compensation under this Act, shall be charged and recovered as follows and not otherwise; (that is to say,)

(1.) The amount so due shall not be recoverable personally against such *landlord*, nor shall he be under any liability to pay such amount, but the same shall be a charge on and recoverable against the *holding* only.

Form 40.

(2.) Such *landlord* shall, either before or after having paid to the *tenant* the amount due to him, be entitled to obtain from the *county court* a charge on the *holding* to the amount of the sum required to be paid, or which has been paid, as the case may be, to the *tenant.*

(3.) If such *landlord* neglect or fail within one month after the *tenant* has quitted his *holding* to pay to the *tenant* the amount due to him, then after the expiration of such one month the *tenant* shall be entitled to obtain from the *county court* in favour of himself, his executors, administrators, and assigns, a charge on the *holding* to the amount of the sum due to him, and of all costs properly incurred by him in obtaining the charge or in raising the amount due thereunder.

(4.) The court shall, on proof of the *tenant's* title to have a charge made in his favour, make an order charging the *holding* with payment of the amount of the charge, including costs, in like manner and form as in case of a charge which a *landlord* is entitled to obtain.

In any character otherwise than for his own benefit—A mortgagee in possession might be such a person.

Charge before payment.

Either before or after—This section is altogether an exception. The procedure for the recovery of compensation provided by sect. 24 does not apply, and the main condition, which by sect. 29 must be satisfied before a charge can be obtained, namely, payment or expenditure of compensation, is here dispensed with. The landlord is to be entitled to obtain the charge, and the court can only require the observance in good faith of the conditions imposed by the Act, proof of the agreement or award.

On proof of the tenant's title—i.e., on proof of the agreement or award.

Advance made by a company.

32. Any company now or hereafter incorporated by Parliament, and having power to advance money for the improvement of land, may take an assignment of any charge made by a *county court* under the provisions of this Act, upon such terms and conditions as may be agreed upon between such company and the *person* entitled to such charge; and such company may assign any charge so acquired by them to any *person* or persons whomsoever.

Any company . . . any person or persons whomsoever—There is nothing to prevent a land company from becoming the broker of such a charge, where an individual is willing to advance the money, by taking the charge for him, and at once, for a consideration, handing it over.

Notice to Quit.

Time of notice to quit.
p. x.
Form 1, clause 2.
Forms 2, 3.

33. Where a half-year's notice, expiring with a year of tenancy, is by law necessary and sufficient for *determination of a tenancy from year to year*, in the case of any such tenancy under a *contract of tenancy* made either before or after the commencement of this Act, a year's notice so expiring shall by virtue of this Act be necessary and sufficient for the same, unless the *landlord* and *tenant* of the *holding*, by writing under their hands, agree that this section shall not apply, in which case a half-year's notice shall continue to be sufficient; but nothing in this section shall extend to a case where the *tenant* is adjudged bankrupt, or has filed a petition for a composition or arrangement with his creditors.

A half-year's notice expiring with a year of tenancy—i.e., when the tenant enters on March 25th he is now entitled to a half-year's notice, given at such a time that it shall expire on March 25th next after the

notice was given. In future he will be entitled to a year's notice so expiring. As to when current tenancies become tenancies under the Act, see notes to sect. 61.

Current tenancies.

The provisions of this section apply to contracts of tenancy "made *either before or after* the commencement of this Act." As the section is general and does not appear to be affected by the saving clause (sect. 60) it may have this very serious effect, that, in the absence of agreement, where "a half-year's notice" is now necessary, all notices to quit given before the 1st of January, 1884 (the date of the commencement of the Act), and expiring after that date, will be void, unless a year's notice is given or an agreement to exclude the Act arrived at. If this construction is correct, the effect may be serious to a landlord with a bad tenant, as it will saddle him with his tenant for eighteen months at least, instead of six months.

Notices to quit given before Jan. 1st, 1884.

The saving clause may however be intended to apply, and it may be fairly argued that the validity of the notice must be judged with reference to the time at which it is given, and not with reference to the time at which it expires, and that when duly given it cannot be rendered invalid by a statute taking effect subsequently. It is too hasty to assume, as has been recently done in letters to the *Times*, that all Michaelmas notices for September 29th, 1884, given after September 29th, 1883, are bad. It is just possible that a Court of Law would take such a narrow construction of the section, but it is not by any means probable. It is more likely that the Court will take a liberal view of the section, and hold all notices good which were duly given at any time before January 1st, 1884. Such a construction would be more consonant with the evident intention that all agreements shall be as soon as possible brought under the Act.

Michaelmas notices.

But the further questions will at once arise whether in case of existing tenancies where "a half-year's" notice is provided for by agreement, it is necessary to execute a fresh agreement expressly excluding the section, or whether the Act is excluded by the agreement already existing.

Whether fresh agreement necessary where "a half year's" notice to quit.

The words of the section are "where a half-year's notice . . . . is *by law* necessary." Coleridge C.J., in WILKINSON *v.* CALVERT (L.R. 3 C. P. D. 360; 47 L.J. C.P. 679.) decided on like words in the 51st section of the Act of 1875, says, "No doubt in an ordinary tenancy from year to year, created by such acts of parties as acceptance of rent at quarter day, or holding over, or otherwise, without any express stipulation for notice to quit, it is incidental to the tenancy that it cannot be put an end to but by a half year's notice expiring at the end of the year of tenancy. This the draftsman of this Act well knew, for he says, "where a half-year's notice is 'by law' necessary, a year's notice shall hereafter be necessary. That no doubt will apply in all cases where there is no express stipulation as to notice." But Coleridge, C.J., in deciding the case seems to have relied on those sections of the Act which provided that the Act should not interfere with the operation of any agreement entered into between landlord and tenant. In that section the words "unless the landlord" to "continue to be sufficient" were not inserted.

"By law" necessary.

It is submitted that as the landlord and tenant, if they wish that a half-year's notice shall continue to be sufficient, must agree that "*this section*" shall not apply, they must do so expressly by a fresh agreement. The present Act clearly contemplates an express agreement, excluding the section, and the words "by law," in the absence of facilities for contracting out of the Act (beyond those comprised in the

section itself), merely point out the legal consequences in the absence of agreement.

Where "six months" notice to quit.

Where the existing agreement provides for the determination of the tenancy on "six months'" notice to quit, the effect will be the same, as in the absence of such agreement a half-year's notice would by law be necessary; although six months' notice is not "a half-year's" notice. (MORGAN *v.* DAVIES, L.R. 3 C.P.D. 260: 26 W.R. 816: WILKINSON *v.* CALVERT, *supra.*) The section is, however, open to either construction; the construction submitted is the one which appears to be most in accordance with the spirit of the Act.

Tenant's property in fixtures, machinery, &c. Pp. xi., xxix., xxx.

34. Where, after the commencement of this Act, a *tenant* affixes to his *holding* any engine, machinery, fencing, or other fixture, or erects any buildings, for which he is not under this Act or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the *landlord*, then such fixture or building shall be the property of and be removable by the *tenant* before or within a reasonable time after the termination of the tenancy. Provided as follows:—

(1.) Before the removal of any fixture or building the *tenant* shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the *landlord* in respect of the *holding:*

(2.) In the removal of any fixture or building the *tenant* shall not do any avoidable damage to any other building or other part of the *holding:*

(3.) Immediately after the removal of any fixture or building the *tenant* shall make good all damage occasioned to any other building or other part of the *holding* by the removal:

Form 15.

(4.) The *tenant* shall not remove any fixture or building without giving one month's previous notice in writing to the *landlord* of the intention of the *tenant* to remove it:

Form 16.

(5.) At any time before the expiration of the notice of removal, the *landlord*, by notice in writing given by him to the *tenant*, may elect to purchase any fixture or building comprised in the notice of removal, and any fixture or

building thus elected to be purchased shall be left by the *tenant*, and shall become the property of the *landlord*, who shall pay the *tenant* the fair value thereof to an incoming *tenant* of the *holding;* and any difference as to the value shall be settled by a reference under this Act, as in case of compensation (but without appeal):

Forms 17-31.

Fixtures:—The word "fixture" is apparently here used in the usual sense of anything annexed to the soil. (ELWES *v.* MAWE, 2 Sm. L.C. 182, 7th Edit.) It is to be presumed, however, that the Act only applies to what are generally called "landlord's" fixtures, such as engines and machinery, used for the purpose of agriculture, and things ejusdem generis, and not to "tenant's" fixtures put up for ornament or domestic use, such as book-cases, chimney-pieces, stoves, grates, greenhouses, and so on.

What are fixtures.

In deciding what are fixtures, the questions to consider are, *first*, the mode of annexation to the soil, whether the chattel can be removed without injury to itself or to the freehold; and, *secondly*, the object and purpose of the annexation, whether it was a permanent improvement or merely for a temporary purpose. (HELLAWELL *v.* EASTWOOD, 20 L.J. Exch., 160: 6 Exch. Rep., 295.)

Thus, cotton spinning machines fixed by screws into the wooden floor and into lead poured in a melted state into holes in the floor were held not to be fixtures, (ibid. 154.295.) So chattels only resting on the ground by their own weight, though they may have sunk into the ground, or deposited in holes dug in the ground and lined with brick-work (HUNTLEY *v.* RUSSELL, 13 Q.B. 572: 18 L.J.Q.B. 239: 13 Jur. (O.S.) 837, ASTBURY, *e.p.* L.R. 4 Ch. App. 630: 38 L.J. Bkcy. 9) are not fixtures.

It should be remembered that all chattels not fixed to the soil are distrainable for rent.

Fixtures erected previous to Jan. 1st, 1884.

After the commencement of this Act:—This section only applies to chattels fixed to the soil after the 1st of January, 1884.

With respect to chattels fixed prior to that date, the general rule is, that a tenant who has affixed anything to the freehold during his tenancy cannot remove it without his landlord's consent. To this rule there are considerable exceptions in favour of trade governed mainly by the principles laid down in HELLAWELL *v.* EASTWOOD, *supra*, but these exceptions did not extend to agriculture.

14-15 Vict. c. 25, sect. 3 (1851), contained provisions enabling a tenant of a farm or lands to remove any farm building, either detached or otherwise, or any other building, engine, or machinery, erected either for agricultural purposes, or for the purposes of trade and agriculture, erected with the consent in writing of the landlord, which shall not have been erected or put up in pursuance of some obligation in that behalf.

Under such Act the tenant before removal must give his landlord a month's notice in writing, to enable him to elect to purchase the fixtures; the value to be ascertained by two referees, one chosen by each party, or their umpire.

The present section is a re-enactment of sect. 53 of the Agri-

cultural Holdings Act, 1875, but is compulsory in its application; and the 1875 Act contained (sect. 53) an additional proviso, that the section should not apply to a steam engine erected by the tenant, if, before erecting it the tenant had not given notice to the landlord, or if the landlord in writing had objected.

The rights under previous Acts are preserved by sect. 62 of this Act.

When tenant may remove fixtures.

Such fixture shall be the property of and be removable by the tenant:—Independently of this Act, the tenant could only remove fixtures during his term, or during a certain time after its expiration, during which he has a right to consider himself in possession *still as tenant.* (*Re* LAVIES, 7 Ch. Div., 127 : 47 L.J. Bankcy., 22 : 37 L.T. 613.)

Bankruptcy.

A nice point may arise, whether a trustee in bankruptcy who gives notice to remove the fixtures, and afterwards disclaims the lease, can, after disclaimer remove the chattels.

If he disclaim before giving notice of removal, it is clear that he cannot remove, since he is after the disclaimer no longer a "tenant" (defined in sect. 61 as the holder of land under a landlord). But when he has paid rent owing and performed his obligations in respect of the holding and given the month's notice of removal, the Act says, the fixtures shall "*be the property of* and be removable by the tenant," and it is submitted that he would clearly have a right to remove them after the tenancy has been put an end to by the disclaimer. But see the last paragraph of sect. 61. (*See* LAVIES *re*, 7 Ch. Div. 127, 47 L.J. Bank, 22 : 37 L.T. 613. LATHAM *re*, 19 Ch. Div. 7: 50 L.J. Ch. 711 : Sir W. HART DYKE *e.p.*, 22 Ch. Div. 410: 52 L.J.Ch. 570.)

Set off under s. 6.

Perform or satisfy all other his obligations to the landlord with respect to his holding:—Besides being obliged to pay up his arrears of rent, the tenant will have to settle with his landlord for all breaches of covenant, waste, and bad farming committed by him before he can remove his fixtures from the soil.

Any avoidable damage:—Landlords will probably be content to spend their money in repairs, rather than in an action about "avoidable damage."

A reference—as in case of compensation:—See above pp. 10-17.

Crown and Duchy Lands.

Application of Act to Crown lands.

35. This Act shall extend and apply to land belonging to her Majesty the Queen, her heirs and successors, in right of the Crown.

With respect to such land, for the purposes of this Act, the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or one of them, or other the proper officer or body having charge of such land for the time being, or in case there is no such officer or body, then such *person* as Her Majesty, her heirs or successors, may appoint in writing under the Royal Sign Manual, shall represent Her Majesty, her heirs and successors, and shall be deemed to be the *landlord.*

Any compensation payable under this Act by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, in respect of an improvement mentioned in the first or second part of the First Schedule hereto, shall be deemed to be payable in respect of an improvement of land within sect. 1 of the Crown Lands Act, 1866, and the amount thereof shall be charged and repaid as in that section provided with respect to the costs, charges, and expenses therein mentioned. 29-30 Vict., c. 62, s. 1.

Any compensation payable under this Act by those Commissioners or either of them, in respect of an improvement mentioned in the third part of the First Schedule hereto, shall be deemed to be part of the expenses of the management of the land revenues of the Crown, and shall be payable by those Commissioners out of such money and in such manner as the last-mentioned expenses are by law payable.

Sect. 1 *of the Crown Lands Act*, 1866—By this section the cost of improvements is charged upon the capital of the land revenue of the Crown, and repaid out of income. The section does not provide for substituted compensation, unless compensation payable under this Act is intended to mean "compensation under this Act and compensation authorised by this Act to be substituted for compensation under this Act."

36. This Act shall extend and apply to land belonging to Her Majesty, her heirs and successors, in right of the Duchy of Lancaster. Application of Act to land of Duchy of Lancaster.

With respect to such land for the purposes of this Act, the Chancellor for the time being of the Duchy shall represent Her Majesty, her heirs and successors, and shall be deemed to be the *landlord*.

The amount of any compensation payable under this Act by the Chancellor of the Duchy in respect of an improvement mentioned in the first and second part of the First Schedule to this Act shall be deemed to be an expense incurred in improvement of land belonging to Her Majesty, her heirs or successors, in right of the Duchy, within sect. 25 of the Act of the 57th year of King George the Third, Chapter 97, and shall be raised and paid as in that section provided with respect to the expenses therein mentioned. 57 Geo 3, c 97, s. 25.

The amount of any compensation payable under

this Act by the Chancellor of the Duchy in respect of an improvement mentioned in the third part of the First Schedule of this Act shall be paid out of the annual revenues of the duchy.

See notes to sect. 35.

Application of Act to land of Duchy of Cornwall.

37. This Act shall extend and apply to land belonging to the Duchy of Cornwall.

With respect to such land, for the purposes of this Act, such *person* as the Duke of Cornwall for the time being, or other the personage for the time being entitled to the revenues and possessions of the Duchy of Cornwall, from time to time, by sign manual, warrant, or otherwise, appoints, shall represent the Duke of Cornwall, or other the personage aforesaid, and be deemed to be the *landlord*, and may do any act or thing under this Act which a *landlord* is authorised or required to do thereunder.

Any compensation payable under this Act by the Duke of Cornwall, or other the personage aforesaid, in respect of an improvement mentioned in the first or second part of the First Schedule to this Act shall be deemed to be payable in respect of an improvement of land within sect. 8 of The Duchy of Cornwall Management Act, 1863, and the amount thereof may be advanced and paid from the money mentioned in that section, subject to the provision therein made for repayment of sums advanced for improvements.

26-27 Vict., c. 49, s. 8.

See notes to Section 35.

Ecclesiastical and Charity Lands.

Landlord, archbishop or bishop.

38. Where lands are assigned or secured as the endowment of a see, the powers by this Act conferred on a *landlord* shall not be exercised by the archbishop or bishop, in respect of those lands, except with the previous approval in writing of the estates committee of the Ecclesiastical Commissioners for England.

Landlord, incumbent of benefice.

p. xxxvii.

39. Where a *landlord* is incumbent of an ecclesiastical benefice, the powers by this Act conferred on a *landlord* shall not be exercised by him in respect of

the glebe land or other land belonging to the benefice, except with the previous approval in writing of the patron of the benefice (that is, the *person*, officer, or authority who, in case the benefice were then vacant, would be entitled to present thereto), or of the Governors of the Queen Anne's Bounty (that is, the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy).

In every such case the Governors of Queen Anne's Bounty may, if they think fit, on behalf of the incumbent, out of any money in their hands, pay to the *tenant* the amount of compensation due to him under this Act; and thereupon they may, instead of the incumbent, obtain from the *county court* a charge on the *holding*, in respect thereof, in favour of themselves.

Every such charge shall be effectual, notwithstanding any change of the incumbent.

See notes to section 29.

Landlord, charity trustees &c. Ss. 29 and 39.

40. The powers by this Act conferred on a *landlord* in respect of charging the land shall not be exercised by trustees for ecclesiastical or charitable purposes except with the previous approval in writing of the Charity Commissioners for England and Wales.

Resumption for Improvements and Miscellaneous.

Resumption of possession for cottages, &c. pp. x., xi. Form 4.

41. Where on *tenancy from year to year* a notice to quit is given by the *landlord* with a view to the use of land for any of the following purposes:

The erection of farm labourers' cottages or other houses, with or without gardens;

The providing of gardens for existing farm labourers' cottages or other houses;

The allotment for labourers of land for gardens or other purposes;

The planting of trees;

The opening or working of any coal, ironstone, limestone, or other mineral, or of a stone quarry,

clay, sand, or gravel pit, or the construction of any works or buildings to be used in connection therewith;

The obtaining of brick earth, gravel, or sand;

The making of a watercourse or reservoir;

The making of any road, railway, tramroad, siding, canal or basin, or any wharf, pier, or other work connected therewith;

and the notice to quit so states, then it shall, by virtue of this Act, be no objection to the notice that it relates to part only of the *holding*.

In every such case the provisions of this Act respecting compensation shall apply as on *determination of a tenancy* in respect of an entire *holding*.

The *tenant* shall also be entitled to a proportionate reduction of rent in respect of the land comprised in the notice to quit, and in respect of any depreciation of the value to him of the residue of the *holding*, caused by the withdrawal of that land from the *holding* or by the use to be made thereof, and the amount of that reduction shall be ascertained by agreement or settled by a reference under this Act, as in case of compensation (but without appeal).

Form 5.

The *tenant* shall further be entitled, at any time within twenty-eight days after service of the notice to quit, to serve on the *landlord* a notice in writing to the effect that he (the *tenant*) accepts the same as a notice to quit the entire *holding*, to take effect at the expiration of the then current year of tenancy; and the notice to quit shall have effect accordingly.

Then current year.

Relates to part only of the holding—Independently of the Act, and of agreement, a notice for part only of the holding is a bad notice. (DOE *v.* ARCHER, 14 East, 245.)—See clauses 28 and 10A, App. 1.

Settled by a reference—The whole expense of a reference must be undertaken to ascertain some very minute reduction, unless the parties can agree.

The tenant shall further be entitled—The words "then current year" give the tenant power to determine the tenancy at less than a year's notice. Suppose in a Lady-Day tenancy the landlord on February 1st gives notice to quit on the 25th March *year*, and the tenant accepts it as notice to quit on the 25th of March then next. If the "then current year" apply to the tenant's notice, the section would have some startling consequences, both as to compensation and the necessary notices for it. Again, suppose in a Lady-Day tenancy the landlord gives notice on the 23rd of March, and the tenant on the 4th of April accepts the landlord's notice to quit the entire tenancy, it cannot be possible in such a case that the "then current year" should apply to the landlord's notice.

42. Subject to the provisions of this Act in relation to Crown, duchy, ecclesiastical, and charity lands, a *landlord*, whatever may be his estate or interest in his *holding*, may give any consent, make any agreement, or do or have done to him any act in relation to improvements in respect of which compensation is payable under this Act which he might give or make or do or have done to him if he were in the case of an estate of inheritance owner thereof in fee, and in the case of a leasehold possessed of the whole estate in the leasehold.

Provision as to limited owners.

Do or have done to him any act—This section should be considered with the provisions of sects. 25-29 of the Settled Land Act, 1882, referring to the execution of improvements by a tenant for life or trustees. By sects. 25-27 and 29 of that Act, a tenant for life may execute or may "join or concur with any other person interested" in executing the improvements mentioned in sect. 25 of the Act (which include, roughly speaking, all the improvements in Parts 1 and 2 of the schedule to this Act), or in contributing to the cost thereof.

Settled Land Act s. 25-29 Scheme to be submitted to Trustees.

By sect. 26 of the Settled Land Act the tenant for life must submit the scheme of improvement to the trustees if the money is in their hands, or to the court, if the money is in court, before he can apply the capital money arising by sale or otherwise in payment for the improvement, and he must also obtain a certificate of the land commissioners or of an engineer or able practical surveyor approved by them, or an order of court, certifying that the work has been properly executed, or directing the trustees so to apply the money.

By sect. 28, the tenant for life and his successors must maintain and repair the improvements made.

If then the landlord joins with the tenant in executing an improvement, and bears part of the cost, he may charge any compensation paid to the tenant in respect of his share on the land under the present section. If he wish to have his own share of the cost, and the compensation paid to the tenant repaid him out of capital moneys, he must obtain the approval and certificate above mentioned.

43. When, by any Act of Parliament, deed, or other instrument, a lease of a *holding* is authorised to be made, provided that the best rent, or reservation in the nature of rent, is by such lease reserved, then, whenever any lease of a *holding* is, under such authority, made to the *tenant* of the same, it shall not be necessary, in estimating such rent or reservation, to take into account against the *tenant* the increase (if any) in the value of such *holding* arising from any improvements made or paid for by him on such *holding*.

Provision in case of reservation of rent.
p. xiv.

PART II.

Distress.

Limitation of distress in respect of amount and time. pp. xi., xxxviii.

44. After the commencement of this Act it shall not be lawful for any *landlord* entitled to the rent of any *holding* to which this Act applies to distrain for rent, which became due in respect of such *holding* more than one year before the making of such distress, except in the case of arrears of rent in respect of a *holding* to which this Act applies existing at the time of the passing of this Act, which arrears shall be recoverable by distress up to the 1st day of January, 1885, to the same extent as if this Act had not passed.

Provided that where it appears that according to the ordinary course of dealing between the *landlord* and *tenant* of a *holding* the payment of the rent of such *holding* has been allowed to be deferred until the expiration of a quarter of a year or half a year after the date at which such rent legally became due, then for the purpose of this section the rent of such *holding* shall be deemed to have become due at the expiration of such quarter or half year as aforesaid, as the case may be, and not at the date at which it legally became due.

To distrain—Rent may still be recovered by *action* within the six years limited by 3-4 Will. 4, c. 27, sect. 42, though limited by the section as regards the right of distress.

Effect of section.

Due . more than one year—The effect of the clause (as stated by Mr. Dodson) is that, if a landlord have half a year's rent due to him at Lady-Day, 1884, and another half-year's rent due at Michaelmas, 1884, he could allow these two half-years' rent, being one year's rent to remain in arrear up to one day short of Lady-Day, 1885, and then he could distrain for one year's rent, because every part of it had become due within one year.

Rent payable in advance.

The proviso in agreements for payment of the last half year's rent in advance will probably be more commonly resorted to. (Clause 7 *infra*.)

The making of such distress—The distress is made by entry on the land, and by seizure, either actual or formal, of the chattels distrained.

Ordinary course of Dealing—Whether rent has fallen into arrear in the ordinary course of dealing will probably be a frequent cause of dispute in case of illegal distress. In many districts it is not the custom

to call upon a tenant for his rent until nearly six months after it is really due.

As if this Act had not been passed—i.e., the rent due on December 25th, 1879, may be recovered by distress at any time before December 25th, 1885. If a tenant wants further time and he is a farmer and nothing more (and consequently not a trader within the Bankruptcy Acts) he can give his landlord a Bill of Sale for the arrears.

Limitation of distress in respect of things to be distrained. pp. xii., xxxvii.

45. Where *live stock* belonging to another *person* has been taken in by the *tenant* of a *holding* to which this Act applies to be fed at a fair price agreed to be paid for such feeding by the owner of such stock to the *tenant*, such stock shall not be distrained by the *landlord* for rent where there is other sufficient distress to be found, and if so distrained by reason of other sufficient distress not being found, there shall not be recovered by such distress a sum exceeding the amount of the price so agreed to be paid for the feeding, or if any part of such price has been paid exceeding the amount remaining unpaid, it shall be lawful for the owner of such stock, at any time before it is sold, to redeem such stock by paying to the distrainer a sum equal to such price as aforesaid, and any payment so made to the distrainer shall be in full discharge as against the *tenant* of any sum of the like amount which would be otherwise due from the owner of the stock to the *tenant* in respect of the price of feeding: Provided always, that so long as any portion of such *live stock* shall remain on the said *holding* the right to distrain such portion shall continue to the full extent of the price originally agreed to be paid for the feeding of the whole of such *live stock*, or if part of such price has been bonâ fide paid to the *tenant* under the agreement, then to the full extent of the price then remaining unpaid.

Agricultural or other machinery which is the bonâ fide property of a *person* other than the *tenant*, and is on the premises of the *tenant* under a bonâ fide agreement with him for the hire or use thereof in the conduct of his business, and *live stock* of all kinds which is the bonâ fide property of a *person* other than the *tenant*, and is on the premises of the *tenant* solely for breeding purposes, shall not be distrained for rent in arrear.

Live stock—includes by sect. 61 "any animal capable of being distrained."

A fair price—some precautions against fraud are necessary to prevent abuse of this section, otherwise it will be found that on a distress being made all the cattle belong to some relation under an agreement for agistment. Whether proper notice was given that the stock was privileged will be a matter for decision under sect. 46.

Principle of privilege from distress.

Where there is other sufficient distress to be found—Independently of this section, cattle which are upon the land by way of agisting may be distrained for rent. (Woodfall, L. & T., citing Roll. Abr. 669). Mellor, J., in MILES *v.* FURBER, L.R. 8 Q.B. 77; 42 L.J. Q.B. 41; 27 L.T. 756, remarks—"I cannot help thinking that if it were shown that a person *exercised the trade* of agisting cattle, the same principle would apply as in the case of a pawnbroker," *i.e.* that the cattle would be absolutely privileged from distress as things delivered to a person exercising a public trade to be managed in the way of his trade. (SWIRE *v.* LEACH, 18 C.B. (N.S.) 479; 34 L.J. C.P. 150; 11 L.T. 180; 11 Jur. 179).

The amount of the price—See sect. 46 as to procedure for settling the fairness of the price.

Agricultural and other machinery—There is no definition of the word machinery in the Act. It would probably be held to be confined to mills, steam engines, threshing machines and chattels of a like nature. If it includes ploughs and all kinds of farming implements, it may have the effect of developing a trade in the hire of such implements, and so leaving a farmer's capital free to increase his stock, instead of spending it in expensive implements and machinery.

Bonâ fide property—See sect. 46.

Remedy for wrongful distress under this Act. p. xxxviii.

46. Where any dispute arises—

(*a*) in respect of any distress having been levied contrary to the provisions of this Act; or

(*b*) as to the ownership of any *live stock* distrained, or as to the price to be paid for the feeding of such stock; or

(*c*) as to any other matter or thing relating to a distress on a *holding* to which this Act applies:

such dispute may be heard and determined by the *county court* or by a court of summary jurisdiction, and any such *county court* or court of summary jurisdiction may make an order for restoration of any *live stock* or things unlawfully distrained, or may declare the price agreed to be paid in the case where the price of the feeding is required to be ascertained, or may make any other order which justice requires: any such dispute as mentioned in this section shall be deemed to be a matter in which a court of summary jurisdiction has authority by law

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to make an order on complaint in pursuance of the Summary Jurisdiction Acts; but any person aggrieved by any decision of such court of summary jurisdiction under this section may, on giving such security to the other party as the court may think just, appeal to a court of general or quarter sessions. Form 45

Levied contrary to the provisions of this Act—that is to say (1) distress for rent due more than a year before the making of the distress, sect. 44; (2) distress of live stock or agricultural machinery contrary to the provisions of sect. 45; (3) making charges contrary to the provisions of sect. 49; (4) distraining for more than the balance, after set off of compensation under sect. 47.

Any other matter or thing—for instance, Who is the "landlord," "tenant," or "owner" of goods distrained; whether proper notice that the chattels were privileged were given; what is "machinery"; what is the "conduct of his business;" the bona fides of the property in machinery, and of the agreement for its hire and use (sect. 45);—the amount of security to be given on appeal (sect. 46);—whether the place to which goods are removed is a "fit and proper place;" the reasonableness of the costs and expenses attending a removal; whether damage to the goods and chattels removed is damage "arising therefrom" (sect. 50); the sufficiency of the security for additional costs (sect. 51); and so on.

May be heard and determined—the section is voluntary, and does not bar the existing remedy in the High Court for illegal or excessive distress. Clause 29 of Appendix 1 will generally be found useful.

Court of Summary Jurisdiction—By sect. 50 and sect. 20 sub-sect. 9 of the Summary Jurisdiction Act, 1879, this must be a court consisting of two or more justices.

Which justice requires—Such as an order for payment of the price declared or damages for the unlawful distress.

Any person aggrieved—As the decision of the court of summary jurisdiction, unless appealed from, would be conclusive as to the property in the goods, it would appear reasonable to adopt the construction of the Court of Appeal in *E. p.* LEAROYD *In re* FOULDS (L.R., 10. Ch. Div. 3; 48 L.J. Bkcy., 17; 39 L.T. 525, decided on sects. 10, 11 of the Bankruptcy Act, 1869), on the words "person aggrieved," namely, that a third person whose title to property is affected by the decision, such as a bill of sale holder, is entitled to appeal.

Set-off of compensation against rent.

47. Where the compensation due under this Act, or under any custom or contract, to a *tenant* has been ascertained before the *landlord* distrains for rent due, the amount of such compensation may be set off against the rent due, and the *landlord* shall not be entitled to distrain for more than the balance.

Any custom or contract—Valuations for away-going crops, unconsumed produce or tillages, may be set off against arrears of rent.

Exclusion of certiorari

48. An order of the *county court* or of a court of

summary jurisdiction under this Act shall not be quashed for want of form, or be removed by certiorari or otherwise into any superior court.

Limitation of costs in case of distress.

49. No *person* whatsoever making any distress for rent on a *holding* to which this Act applies when the sum demanded and due shall exceed the sum of twenty pounds for or in respect of such rent shall be entitled to any other or more costs and charges for and in respect of such distress, or any matter or thing done therein than such as are fixed and set forth in the Second Schedule hereto.

Shall exceed twenty pounds—The charges, where the sum distrained for does not exceed this sum are regulated by 57 Geo. III, c. 93. It may be noticed that by sect. 6 of this statute every broker has to give a signed copy of his charges and of all the costs and charges of the distress to the person whose goods are distrained.

Repeal of 2 W. and M., c. 5, s. 1, as to appraisement and sale at public auction.

50. So much of an Act passed in the second year of the reign of their Majesties King William the Third and Mary, chapter five, as requires appraisement before sale of goods distrained is hereby repealed as respects any *holding* to which this Act applies, and the *landlord* or other person levying a distress on such *holding* may sell the goods and chattels distrained without causing them to be previously appraised; and for the purposes of sale the goods and chattels distrained shall, at the request in writing of the *tenant* or owner of such goods and chattels, be removed to a public auction room, or to some other fit and proper place specified in such request, and be there sold. The costs and expenses attending such removal, and any damage to the goods and chattels arising therefrom, shall be borne and paid by the party requesting the removal.

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Inventory still necessary.

Appraisement—The appraisement is generally endorsed on the inventory, and the two are one document. But the section does not relieve persons making a distress from the necessity, after seizure of giving to the tenant a notice with an inventory containing an account of everything taken under the distress, and of the amount of rent in arrear, in compliance with the statute 2 W. & M., c. 5 (KERBY *v.* HARDING, 6 Exch., 234; 20 L.J., Exch., 163).

The inventory will bear a 10s. stamp, under the Stamp Act of 1870. Under the old law, the broker appraising was bound to offer

the goods at the appraised price to the debtor or his nominee. If bought, the goods were free from distress until fresh rent was due and from the claims of creditors. This has probably been overlooked in the present section.

Be removed to . fit and proper place—After making the inventory the goods are impounded, generally on the premises, though they may be impounded either on or off the premises. Unless the tenant or owner request their removal in accordance with this section, the goods impounded on the premises may be sold there. (11 Geo. II., c. 19, s. 10). Goods impounded elsewhere will be sold where they are impounded.

Where goods are impounded.

There is an exception in the case of sheaves or cocks of corn, corn loose in the straw, or hay, which must be impounded and sold where found (2 W. & M., c. 5., s. 5), and growing crops, which when ripe must be cut and impounded in the "barns or proper place on the premises," or if there is no such place, in a barn or place hired by the landlord as near as may be to such premises (11. Geo. II., c. 19., s. 8.) This section may do away with the necessity of paying a man in possession, but the tenant may be charged by the broker or auctioneer for warehousing the goods pending the sale.

Sheaves of corn and growing crops.

Costs and expenses . . . damage arising therefrom—See notes to sect. 46.

51. The period of five days provided in the said Act of William and Mary, chapter five, within which the *tenant* or owner of goods and chattels distrained may replevy the same shall, in the case of any distress on a *holding* to which this Act applies, be extended to a period of not more than fifteen days, if the *tenant* or such owner make a request in writing in that behalf to the *landlord* or other *person* levying the distress, and also give security for any additional costs that may be occasioned by such extension of time. Provided that the *landlord* or *person* levying the distress may, at the written request or with the written consent of the *tenant*, or such owner as aforesaid, sell the goods and chattels distrained or part of them at any time before the expiration of such extended period as aforesaid.

Extension of time to replevy at request of tenant.

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Period of five days—These five days were reckoned exclusive of the day of distress and the day of sale. (ROBINSON *v.* WADDINGTON, 15 Q.B. 753; 18 L.J. Q.B. 250.) The words of the statute were, "within five days next after such distress taken," and "after . expiration of the said five days."

The five days have been a very fruitful source of dispute between landlord and tenant. Owing to the time being so short, there has not been a good attendance at the sale; or, if the tenant has given a verbal hold-over, he has afterwards disputed it.

Also give security for any additional costs—The section does not say by whom such additional costs are to be paid. It may be a question whether such additional costs would include a possible depreciation in value of the effects, owing to a fall in the market or other circumstances

Bailiffs to be appointed by County Court Judges.

52. From and after the commencement of this Act no *person* shall act as a bailiff to levy any distress on any *holding* to which this Act applies unless he shall be authorised to act as a bailiff by a certificate in writing under the hand of the judge of a *county court;* and every *county court* judge shall, on or before the 31st day of December, 1883, and afterwards from time to time as occasion shall require, appoint a competent number of fit and proper *persons* to act as such bailiffs as aforesaid. If any *person* so appointed shall be proved to the satisfaction of the said judge to have been guilty of any extortion or other misconduct in the execution of his duty as a bailiff, he shall be liable to have his appointment summarily cancelled by the said judge.

PART III.

General Provisions.

53. This Act shall come into force on the 1st day of January, 1884, which day is in this Act referred to as the commencement of this Act.

Commencement of Act.

54. Nothing in this Act shall apply to a *holding* that is not either wholly agricultural or wholly pastoral, or in part agricultural, and as to the residue pastoral, or in whole or in part cultivated as a market garden, or to any *holding* let to the *tenant* during his continuance in any office, appointment, or employment of the *landlord.*

Exception of non-agricultural and small holdings.

Shall apply to a holding—The referee must decide whether the Act applies. As many nice questions may arise as to the application of the Act this is an additional inducement to exclude it. The words "not exceeding two acres" which reconciled this section were struck out in Committee. It will be very difficult to decide under this section whether a tenant requires a year's notice under sect. 33 as being within the Act or not. Holdings on which there is a country house or shooting box or shop are not strictly within the section, but, considering the object and scope of the Act, a Court of law would probably try and bring them within it.

Gardens.

Market gardens—Labourers' gardens are practically excluded by the last paragraph of this section. By the use of these words, gardens are by implication excluded from the Act, though the making of gardens is one of the improvements in the schedule.

Allotments.

The Act may have a very injurious effect on the system of small allotments to labourers, which are a kind of property by no means profitable to landlords and very troublesome to agents, unless the Act is evaded by letting the allotments in weekly or monthly tenancies. By section 61 the Act only applies to leases and yearly tenancies. If labourers' allotments are let by the month, determinable at any time by one month's notice, they will be outside the Act. Some effects will probably result which were not contemplated by the framers of the Act. By the Allotments Extension Act, 1882, trustees of lands vested in them for the benefit of the poor are compelled to let them in allotments not exceeding one acre to the first applicant on a yearly tenancy commencing at Michaelmas.

Office, appointment, or employment—This would seem to give an opening for an evasion of the Act. This will seriously affect sub-agents and other persons who, in return for their services, hold small amounts of land.

55. Any contract, agreement, or covenant made by a *tenant*, by virtue of which he is deprived of his right

Avoidance of agreement inconsistent with Act.

pp. ix., xxiii.

to claim compensation under this Act in respect of any improvement mentioned in the First Schedule hereto (except an agreement providing such compensation as is by this Act permitted to be substituted for compensation under this Act), shall, so far as it deprives him of such right, be void both at law and in equity.

Whether tenant can contract himself out of the Act.

Deprived of his right to claim compensation—The right to claim compensation does not arise until the tenant has executed the improvements and given the necessary notices. There would appear, therefore, to be nothing in the Act to prevent a tenant contracting not to execute improvements at all, or without leave of his landlord, though if he broke his contract he might claim compensation, and leave his landlord to his action for the breach. In the latter case the referee would exercise his discretion under sect. 20 as to the costs of the reference.

Right of tenant in respect of improvement purchased from outgoing tenant.

56. Where an incoming *tenant* has, with the consent in writing of his *landlord*, paid to an outgoing *tenant* any compensation payable under or in pursuance of this Act in respect of the whole or part of any improvement, such incoming *tenant* shall be entitled on quitting the *holding* to claim compensation in respect of such improvement or part in like manner, if at all, as the outgoing *tenant* would have been entitled if he had remained *tenant* of the *holding*, and quitted the *holding* at the time at which the incoming *tenant* quits the same.

In like manner if at all—Probably the provisions of this section will be largely used, as they will enable landlords to avoid the indebtedness and mortgages to companies contemplated by sects. 29-32. In many cases the improvements will have exhausted themselves before the incoming tenant quits the holding. The landlord, though he may have been taking reduced rent in consequence of the incoming tenant's outlay, will not be paying money out of pocket or charging the holding.

The incoming tenant should be most careful to keep all receipts and vouchers in respect of such payments, and the award made for compensation, so as to be able to prove his claim when the time arises, as otherwise it might be impossible, owing to lapse of time, to obtain evidence of value.

Compensation under this Act to be exclusive.

pp. xiii, xxii.

57. A *tenant* shall not be entitled to claim compensation by custom or otherwise than in manner authorised by this Act in respect of any improvement for which he is entitled to compensation under or in pursuance of this Act, but where he is not entitled to

compensation under or in pursuance of this Act he may recover compensation under any other Act of Parliament, or any agreement or custom, in the same manner as if this Act had not been passed.

Entitled to compensation—If the tenant neglect to give the proper notices he will not be entitled to compensation.
Any other Act of Parliament—See sect. 62. (*b*) and (*c*).

Provision as to change of tenancy.
p. xiv.

58. A *tenant* who has remained in his *holding* during a change or changes of tenancy, shall not thereafter on quitting his *holding* at the *determination of a tenancy* be deprived of his right to claim compensation in respect of improvements by reason only that such improvements were made during a former tenancy or tenancies, and not during the tenancy at the determination of which he is quitting.

Object of section.

Change or changes of tenancy—This section was introduced, according to Mr. Dodson, to strengthen the words in sect. 1, "on quitting his holding" in the interests of a tenant, who, during the currency of a lease had taken more land. See the notes to sect. 1 as to the modes by which a change of tenancy may be effected.
This section will also apply to a tenant having a term holding over at the expiration of the term; and it would appear to have this effect, that if a tenant have a wrangle with his landlord over an increase of rent which he thinks is due to improvements made by himself, and notice to quit is given, but afterwards withdrawn, and the parties come to a compromise, the tenant, on quitting at any future time, can claim for the improvements made before such notice to quit was given.

Restriction in respect of improvements by tenant about to quit.
p. xx., xxi.

59. Subject as in this section mentioned, a *tenant* shall not be entitled to compensation in respect of any improvements, other than *manures* as defined by this Act, begun by him, if he holds from year to year, within one year before he quits his *holding*, or at any time after he has given or received final notice to quit, and, if he holds as a lessee, within one year before the expiration of his lease.

A final notice to quit means a notice to quit which has not been waived or withdrawn, but has resulted in the *tenant* quitting his *holding*.

The foregoing provisions of this section shall not apply in the case of any such improvement as aforesaid—

(1.) Where a *tenant* from year to year has begun such improvement during the last year of his

Form 2.

tenancy, and, in pursuance of a notice to quit thereafter given by the *landlord*, has quitted his *holding* at the expiration of that year; and

Forms 6, 10.

(2.) Where a *tenant*, whether a tenant from year to year or a lessee, previously to beginning any such improvement, has served notice on his *landlord* of his intention to begin the same, and the *landlord* has either assented or has failed for a month after the receipt of the notice to object to the making of the improvement.

General saving of rights.

60. Except as in this Act expressed, nothing in this Act shall take away, abridge, or prejudicially affect any power, right, or remedy of a *landlord*, *tenant*, or other *person* vested in or exerciseable by him by virtue of any other Act or law, or under any custom of the country, or otherwise, in respect of a *contract of tenancy* or other contract, or of any improvements, waste, emblements, tillages, away-going crops, fixtures, tax, rate, tithe, rentcharge, rent, or other thing.

Right to bring actions for waste and illegal or excessive distress in the High Court are instances of rights saved by this section, and customs as to valuation between incoming and outgoing tenant are preserved.

61. In this Act—

Interpretation.

"Contract of tenancy" means a letting of or agreement for the letting land for a term of years, or for lives, or for lives and years, or from year to year:

pp. xiii., xiv., 7, 26.

A tenancy from year to year under a *contract of tenancy* current at the commencement of the Act shall for the purposes of this Act be deemed to continue to be a tenancy under a *contract of tenancy* current at the commencement of this Act until the first day on which either the *landlord* or *tenant* of such tenancy could, the one by giving notice to the other immediately after the commencement of this Act, cause such tenancy to determine, and on and after

such day as aforesaid shall be deemed to be a tenancy under a *contract of tenancy* beginning after the commencement of this Act:

"Determination of tenancy" means the cesser of a *contract of tenancy* by reason of effluxion of time, or from any other cause: pp. 1-3.

"Landlord" in relation to a *holding* means any *person* for the time being entitled to receive the rents and profits of any *holding*: pp. 24, 25.

"Tenant" means the holder of land under a *landlord* for a term of years, or for lives, or for lives and years, or from year to year: p. 29.

"Tenant" includes the executors, administrators, assigns, legatee, devisee, or next-of-kin, husband, guardian, committee of the estate or trustees in bankruptcy of a tenant or any *person* deriving title from a tenant; and the right to receive compensation in respect of any improvement made by a *tenant* shall ensure to the benefit of such executors, administrators, assigns, and other *persons* as aforesaid: pp. 20, 21, 25 29.

"Holding" means any parcel of land held by a *tenant*: p. 42.

"County court," in relation to a *holding*, means the county court within the district whereof the *holding* or the larger part thereof is situate:

"Person" includes a body of persons and a corporation aggregate or sole:

"Live Stock" includes any animal capable of being distrained: p. 36.

"Manures" means any of the improvements numbered twenty-two and twenty-three in the third part of the First Schedule hereto: p. 8.

The designations of *landlord* and *tenant* shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Act in respect of compensation for improvements, or under any agreement made in pursuance of this Act. p. 29.

A tenancy from year to year .... immediately after the commencement of the Act.—i.e., for a Lady Day tenancy, the 25th of March, 1885, and for a Michaelmas tenancy, the 29th of September, 1885. See the notes to sect. 33, and the difficulty there suggested as to notices given before Jan. 1st, 1884.

Landlord. . . . entitled to receive the rents and profits—It may be a question whether a mortgagor who has attorned tenant to the mortgagee can be said to be entitled to receive the rents and profits. So long as the mortgagee received only his interest, the mortgagor presumably would be so entitled, but if the mortgagee entered into possession of the rents under the attornment clause, he would then be the person entitled to the receipt of the rents and profits.

Repeal of Acts of 1875 and 1876.

62. On and after the commencement of this Act, the Agricultural Holdings (England) Act, 1875, and the Agricultural Holdings (England) Act, 1875, Amendment Act, 1876, shall be repealed.

Provided that such repeal shall not affect—

(*a*) Anything duly done or suffered, or any proceedings pending under or in pursuance of any enactment hereby repealed; or

(*b*) any right of a *tenant* to compensation in respect of improvements to which the Agricultural Holdings (England) Act, 1875, applies, and which were executed before the commencement of this Act; or

(*c*) any right to compensation in respect of any improvement to which the Agricultural Holdings (England) Act, 1875, applies, although executed by a *tenant* after the commencement of this Act if made under a *contract of tenancy* current at the commencement of this Act; or

(*d*) any right in respect of fixtures affixed to a *holding* before the commencement of this Act;

and any right reserved by this Section may be enforced after the commencement of this Act in the same manner in all respects as if no such repeal had taken place.

Short title of Act.

63. This Act may be cited for all purposes as the Agricultural Holdings (England) Act, 1883.

Limits of Act.

64. This Act shall not apply to Scotland or Ireland.

FIRST SCHEDULE.

PART I.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED.

(1.) Erection or enlargement of buildings.

(2.) Formation of silos.

(3.) Laying down of permanent pasture.

(4.) Making and planting of osier beds.

(5) Making of water meadows or works of irrigation.

(6.) Making of gardens.

(7.) Making or improving of roads or bridges.

(8.) Making or improving of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.

(9.) Making of fences.

(10.) Planting of hops.

(11.) Planting of orchards or fruit bushes.

(12.) Reclaiming of waste land.

(13.) Warping of land.

(14.) Embankment and sluices against floods.

PART II.

IMPROVEMENT IN RESPECT OF WHICH NOTICE TO LANDLORD IS REQUIRED.

(15.) Drainage.

PART III.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS NOT REQUIRED.

(16.) Boning of land with undissolved bones.
(17.) Chalking of land.
(18.) Clay-burning.
(19.) Claying of land.
(20.) Liming of land.
(21.) Marling of land.
(22.) Application to land of purchased artificial or other purchased manure.
(23.) Consumption on the holding by cattle, sheep, or pigs of cake or other feeding stuff not produced on the holding.

SECOND SCHEDULE.

Levying distress. Three per centum on any sum exceeding £20 and not exceeding £50. Two and a half per centum on any sum exceeding £50.

To bailiff for levy, £1. 1s.

To man in possession, if boarded, 3s. 6d. per day; if not boarded, 5s. per day.

For advertisements, the sum actually paid.

To auctioneer.—For sale five pounds per centum on the sum realised not exceeding £100, and four per centum on any additional sum realised not exceeding £100, and on any sum exceeding £200 three per centum. A fraction of £1 to be in all cases considered £1.

Reasonable costs and charges where distress is withdrawn or where no sale takes place, and for negotiations between *landlord* and *tenant* respecting the distress; such costs and charges in case the parties differ to be taxed by the registrar of the *county court* of the district in which the distress is made.

APPENDIX I.

AGREEMENT FOR A LEASE.

APPLICABLE TO A LADY-DAY TENANCY, OR A MICHAELMAS TENANCY.

(1.)

AN AGREEMENT made the day of between A.B. of [*or* C.D. agent for A.B. of] [who, together with his heirs and assigns and the person or persons for the time being entitled to the premises hereby demised expectant on the term hereby granted is hereinafter called the landlord] of the one part and C.D. of [who, together with his executors administrators and assigns is hereinafter called the tenant] of the other part. Parties.

1. The landlord agrees to let and the tenant to take the farm and premises situate in the parish of , in the County of , and particularly described in the first schedule hereto and hereinafter called the farm, for the term of one year from the day of and so on from year to year, determinable at the end of the first or any subsequent year on [*one year's*] six calendar months' notice in writing to quit, at the rents and upon the conditions hereinafter expressed, which the landlord and tenant hereby agree respectively to pay and perform. Parcels. Term. Notice to quit. Ss. 33, 59.

2. *Section thirty-three* of the Agricultural Holdings (England) Act, 1883, shall not apply to this tenancy. S. 33 excluded. p. xxiii.

Reservations and Rents.

3. The landlord excepts and reserves to himself all trees saplings underwood and plantations whatsoever [save such as are comprised in the first schedule], and all mines minerals and quarries, with free access for himself and all persons authorised by him to fell, cut, win, work and carry away the same, and also to enter for the purpose of viewing, and if necessary, of erecting buildings, making roads, gardens, drains, water-courses, plantations and alterations, and of executing repairs, and ascertaining the state and condition of the farm. Also Reservations. *Proud v. Bates.* 34 L.J. ch. 406. S. 41. See Clause 28.

all game, wildfowl and fish [save as provided by the Ground Game Act, 1880] and nests and eggs of game, with the right for himself his friends and servants at all times to enter the farm for the purpose of sporting and preserving the same.

Rent. p. xxiii.

4. The tenant shall pay a rent for the farm of £ per annum, clear of all deductions by four equal quarterly payments on the usual quarter days. The first payment shall be made upon the day of .

Rents and penalties, p. xxiv.

5. The tenant shall pay a further yearly rent at the rate of £ for every acre of meadow, pasture, or woodlands now let, or of land which may by mutual agreement be laid down to pasture or wood, which shall be pared or broken up without the consent of the landlord and a further yearly rent at the rate of £ for every acre of the arable land which shall not be cultivated in the manner hereinafter mentioned without such consent, and a further yearly rent at the rate of £ for every acre for any land above two acres which shall be sown or set with hemp, flax, or rape grown to seed, or potatoes without such consent, and a further yearly rent of £ for every tree or sapling which the tenant shall wilfully cut down or injure without such consent.

Rents and penalties, how paid.

6. Such further rents shall be paid by equal quarterly payments clear of all deductions in manner above mentioned, and shall be recoverable by distress, and the first payment shall become due on the first quarter-day next after the event on which the same shall become payable. If the tenancy shall be determined under clause 21, the tenant shall pay a proportionate part of all rents, tithe rent charges, rates, taxes, and other outgoings then accruing due for the fraction of the current quarter up to the date of such determination.

Rent, when payable in advance. S. 44.

7. If at any time in any year of the tenancy, the landlord shall give to the tenant or leave at the farm house a notice in writing requiring the tenant immediately to pay all rents which should become payable from the quarter-day preceding such notice to the Lady-Day [*or* the 29th of September] following, on the delivery of such notice such rent shall become due and payable in advance, and may be recovered by distress or otherwise as rent in arrear.

Landlord's Agreements.

Repairs. S. 6.

8. [*Where tenant does repairs.*—The landlord shall find all materials in the rough for repairs to be done by the

tenant. *Where landlord does repairs.*—Except as provided by clause 19 the landlord shall find all materials for repairs, and shall do all such repairs to the farm, including painting, as may from time to time be found necessary.

9. *Where the landlord does drainage.*—The landlord shall do all new draining at his own cost, and shall charge the tenant interest on the cost incurred in respect thereof at the rate of £ per cent. per annum, and the same shall be recoverable by distress, or otherwise, as rent in arrear. This agreement shall be in substitution for the provisions of section 4 of the Agricultural Holdings (England) Act, 1883, and all notices under that section shall be dispensed with.

Drainage by landlord, S. 4 pp. xv. xxv. 6, and Clause 18, *infra*.

10. The landlord shall, on the tenant quitting at the determination of his tenancy [provided that the tenant has paid the rents, and performed the conditions of this Agreement], pay the tenant allowances in respect of the matters mentioned in the second schedule hereto at the rates therein mentioned. Such allowances shall be in substitution for any compensation to which the tenant would be entitled under the Agricultural Holdings (England) Act, 1883, in respect of any matters contained in the 3rd part of the 1st schedule to that Act.

Agreement as to compensation for improvements in part iii. under s. 5.

Tenant's Agreements.

11. The tenant shall pay all rates, taxes, tithes, tithe rent charges, assessments, and outgoings of every description (except landlord's property tax), now or hereafter payable in respect of the farm. Any of such payments shall, if required by the landlord, be paid to him, and in case the tenant shall make default in any of such payments, the landlord may recover the same by distress, or otherwise, as rent in arrear.

Rates and Taxes, &c. S. 6.

S. 47.

12. In addition to the valuations hereinafter mentioned, the tenant will pay to the outgoing tenant any allowances or compensation which may be due to him in respect of any of the matters in the second schedule hereto.

Payment of compensation by incoming to outgoing tenant. S. 56.

13. The tenant shall farm and manage all parts of the farm in a good husbandlike manner, keeping and leaving it clean, free from weeds, and in good condition. He shall have at least one-fourth of the arable land in clean summer or turnip fallow in every year, and shall also, with the first crop of corn after such fallow, sow good clover or grass seeds.

Cultivation. [NOTE.- *Paras. 13 and 14 are applicable to the four course system. They must be varied according to the rotation of cropping (if any) intended to be enforced.*]

14. The tenant shall not from any of the lands take

Rotation of Crops.

more than two white crops under the same course of tillage, nor two successive crops of the same kind of corn, and he shall with one of such white crops lay down the land with clover or grass seeds.

[*Here will come any special covenants rendered necessary by the custom of the estate or district in which the farm is situated.*]

To consume hay, straw and manure, &c. S. 6. (b.)

15. The tenant shall consume upon the farm all hay, straw, fodder, haulm, chaff, roots, and green crops, grown thereon, and spread thereon all manure (except as hereinafter mentioned) arising thereon. He shall not sell or dispose of any part thereof without the landlord's consent in writing. If the same or any part thereof shall be taken and sold under a distress for rent, or an execution for debt, or otherwise, it may be sold, subject to a condition that it shall be consumed upon the farm, and the manure arising from such consumption shall not be removed from the farm.

Vouchers and Samples.

16. Samples taken from the bulk of all the manufactured artificial manures spread upon the farm shall, in each year, be submitted to and sent to the landlord, and the landlord may at any time call for all proper proof and evidence of use and application of such manures, and may call for and inspect all bills, vouchers, and receipts, showing the description of and outlay upon any of the matters mentioned in the 2nd Schedule hereto, [*or if the Schedule is not used* mentioned in the 1st Schedule to the Agricultural Holdings Act, 1883.]

To mow grass land.

17. The tenant shall not mow any meadow or grass land except water meadow more than once in any one year, nor shall he mow the same in two successive years without manuring the same before the second mowing to the satisfaction of the landlord.

Drains and outfalls.

18. The tenant shall maintain keep and leave all ditches, drains, cesspools, watercourses and outfalls properly cleansed and scoured out, and he shall plash and lay the fences in regular succession in the best form and so leave them on quitting.

Drainage by tenant. S. 4. pp. xv. xxv. 6, and Clause 9. *supra.*

When the tenant is to do all drainage.—The tenant shall do all new draining required upon the farm at his own cost, subject to the approval of the landlord or his agent as to the land to be drained and the method of draining, and shall be paid compensation for the outlay incurred in respect thereof [less the cost of labour and haulage, *or as*

the case may be], at the rate of . This Agreement, *&c. as in clause 9.*

19. *Where tenant does all repairs and landlord finds materials.*—The tenant shall keep all buildings and outbuildings on the farm in a good tenantable condition [*or* in as good condition as they were in when he entered or may be put into by the landlord] and shall put and keep all fences, walls, gates, posts, arches, bridges and stiles on the farm in good condition and repair. Repairs.

Where landlord does repairs.—The tenant shall paper, glaze, and whitewash such parts of the farm house and buildings as are now or may hereafter be papered, glazed and whitewashed, and shall maintain and leave all the landlord's fixtures and fittings in the farm house and in and about the farm generally in good repair and condition, and shall find straw for thatching, and shall do the haulage gratis within a distance of miles from the farm house of all materials for repairs, or for new erections or drainage, or for any improvements upon the farm.

20. The tenant shall not assign or underlet any part of the farm [except cottages and gardens to labourers] without the previous consent in writing of the landlord, and he shall at all times reside upon the farm. Not to underlet.

21. If and whenever any part of the rents and other payments before reserved shall be in arrear for twenty-one days, whether the same shall have been legally demanded or not, and no sufficient distress can be found upon the farm to satisfy such arrears, or if and whenever there shall be a breach by the tenant of any of the conditions and agreements herein contained, or if and whenever the tenant shall become bankrupt or compound with his creditors, or execute any bill of sale or assignment of his effects, or suffer his effects or any part thereof to be taken in execution then and in any of such cases [save as provided by the Conveyancing and Law of Property Act, 1881], the landlord may re-enter upon any part of the farm in the name of the whole, and thereupon this tenancy shall be absolutely determined, and the tenant shall pay a proportionate part of all rents, tithe rent charges, rates, taxes, and other outgoings then accruing due for the part of the current quarter up to the date of such determination. Proviso for re-entry.

The Last Year of Tenancy and Quitting.

(For a Lady Day Tenancy only.)

22. The tenant shall, before the 1st day of pre- Ploughings for incoming tenant. See clause 24.

ceding the determination of the tenancy, in a husband-like manner plough the stubbles for the incoming tenant, for which he shall be paid by valuation. If he shall neglect to do so the landlord or incoming tenant may on or at any time after such day enter and do such acts, and in such case shall have accommodation for a servant and for horses on the farm.

Not to turn animals on mowing grass.

23. The tenant shall not, after the 2nd of February next before the end of his tenancy, turn any animal upon any meadow or grass land in rotation or intended for mowing the following harvest, or after the 1st of November upon any land seeded down the preceding spring.

General valuation clause.

24. In addition to any compensation to which the tenant may be entitled under clause 10 of this agreement, or under the Agricultural Holdings (England) Act, 1883, the landlord or incoming tenant shall, upon the termination of the tenancy [unless the tenancy is determined under condition 21], if the tenant pays the rents and performs the stipulations herein contained, but not otherwise, pay to the tenant the amount (if any) of a valuation to be made by two arbitrators or their umpires, under clause 29 of this Agreement.

The valuation shall include :—

[*The various payments for clover, seeds, share of wheat, unconsumed hay, straw, haulm, fodder, chaff, manure, ploughings and preparations, and so on, provided for by the customs of the country. Sometimes, instead of a valuation in Lady Day takes, there is provision for the outgoing tenant having a room in the farmhouse, and boosy pasture on which his stock may consume the hay and fodder; and in Michaelmas takes, for the outgoing tenant to have barn, granary, and stackyard room in which to stack and thresh his last year's crops.*]

For a Michaelmas tenancy only.

Cultivation.

25. The tenant shall allow the landlord or incoming tenant to enter upon, cultivate and manure, *here follow the amounts of land to be reserved to an incoming tenant on 3 course, 4 course, and 5 course tillages.*

To sow grass seeds

26. The tenant shall sow, or permit the landlord or incoming tenant to sow clover or other proper grass seeds with the summer corn, and shall harrow and roll in the same gratis. The tenant shall give the landlord or incoming tenant notice to supply the seeds days previous to the

time at which such grass seeds should be sown. If the seeds are not supplied within days, then the tenant shall provide proper seeds, and shall be paid for the same as hereinafter mentioned. The tenant shall not graze or feed young seeds after harvest.

27. After the day of preceding the determination of the tenancy the tenant shall provide for the landlord or incoming tenant accommodation for a servant and for horses on the farm with the joint use of the cartsheds, and stackyard room for corn and hay for such horses, and dry straw for their litter, and room for implements and for storing and preparing artificial manure. Accommodation for incoming tenant.

[*Here will follow general valuation clause (24) as in Lady Day tenancy.*] General valuation clause.

GENERAL CONDITIONS.

28. The landlord may at any time resume possession of any part or parts of the farm (provided any such part shall not exceed acres) for the purpose of executing thereon any of the improvements mentioned in sect. 41. of the Agricultural Holdings (England) Act, 1883, or in the first Schedule thereto, without any notice whatever to the tenant being necessary. Resuming possession. S. 41.

29. All claims or matters in dispute arising under this agreement and all compensation, allowances, payments, and valuations to which either party may claim to be entitled under this Agreement, or under the Agricultural Holdings (England) Act, 1883, or otherwise, and all questions as to the construction of this Agreement or as to the performance or observance of any of the conditions herein contained shall be ascertained and settled by a referee in manner provided by the Agricultural Holdings (England) Act, 1883, but without any appeal in any case to the County Court, and the provisions of sects. 7 and 23 of such Act relating to notices and appeals to the County Court, and of sect. 10 relating to the appointment of referees and umpires by the County Court or the Land Commissioners, shall not apply to this tenancy. All questions relating to the validity of or arising under any distress made under the provisions of this Agreement shall be determined by a Court of Summary Jurisdiction as provided by sect. 46 of the Agricultural Holdings (England) Act, 1883. Arbitration clause.

1ST SCHEDULE.

(Names of Fields and Acreage.)

2ND SCHEDULE.

PARTICULARS OF OUTLAY.	APPLICATION.	LAST YEAR OF TENANCY.	LAST BUT ONE.
Bones ground to ½ in.	To Fallows & Root Crops	*(Amounts of compensation in different years of tenancy.)*	
" "	To Pasture		
Lime	To Tillage Land and to Pasture		
Peruvian Guano ..	To Fallow and Root Crop	[N.B.—Chalking, clay burning, claying, and marling, haulage and other allowances may be included in a similar schedule.]	
Bone Superphosphate and Turnip Manure..	To Fallow and Root Crop		
" "	To Pasture		
Good Stable Manure purchased	To Tillage Land ..		
	To Pasture		
Oil Cake, Cotton Cake, or Linseed, &c. &c.	Consumed on the farm . .		

With such variations as may be advisable.

AGREEMENT FOR A LEASE.

SHORT FORM.

(1*)

p. xxiii. NOTE.—*This Precedent is intended for use when the parties desire at once to reduce into writing the terms of a verbal Agreement with the intention of executing a more complete Agreement at a future date. The References are to the Clauses of the first Precedent.*

AN AGREEMENT made the day of

Clause 1. between A.B. of hereinafter called the landlord of the one part and C.D. of hereinafter called the tenant of the other part.

1a. The landlord shall let to the tenant the farm for

one year from the day of and so on from year to year at a rent of £ per annum, payable quarterly, to be determined by six months [one year's] notice to quit, expiring at the end of any year of the tenancy.

2a. (Here insert clause 2 *supra* if desired). Clause 2.

3a. All trees, plantations, mines, minerals, quarries, and game are reserved to the landlord. Clause 3.

4a. (Here insert clause 7 *supra* if desired). Clause 7.

5a. The tenant shall keep the premises in as good condition as they were in when he entered, or shall be put into by the landlord, the landlord finding all materials in the rough for repairs *(or as the case may be)*, and shall keep all ditches, drains, watercourses and sewers properly cleansed and scoured out. Clauses 8, 18, 19

6a. The tenant shall pay all rates, taxes, and outgoings of every description, except landlord's property tax now or hereafter payable in respect of the farm, and shall pay to the outgoing tenant any allowances or compensation which may be due to him in respect of any of the matters mentioned in paragraph 12a of this agreement. Clauses 11, 12.

7a. The tenant shall farm according to the custom of the country and the rules of good husbandry. Clauses as to Cultivation.

8a. The tenant shall not sell off the farm any hay, straw, green crops and manure without the landlord's consent, and he shall produce to the landlord on request, samples taken from the bulk of all manufactured artificial manures spread upon the farm. Clauses 15, 16.

9a. The tenant shall not assign or underlet any part of the farm. Clause 20.

10a. No notice under clause 41 of the Agricultural Holdings England Act shall be necessary for resumption of possession. Clause 28.

11a. The landlord shall do all new drainage, and the tenant shall pay a rent of £ per annum on the outlay [*or* the tenant shall do all new drainage subject to the approval of the landlord, and shall be paid for his outlay at the rate of]. This agreement shall be in substitution for the provisions of section 4 of the Agricultural Holdings (England) Act, 1883. Clauses 9, 18.

12a. On the termination of the tenancy the tenant shall Clauses 10, 24. and Schedule.

be paid by valuation for *matters set out in clause 24 supra.* The tenant shall also on quitting be paid allowances in respect of the following matters, namely: *the matters in the 2nd schedule to form 1 supra p.* . Such allowances shall be in substitution *&c. as in clause 10 supra.*

Clause 29.

13a. All such allowances and valuations, and all claims and disputes arising under this agreement shall be ascertained and settled by a reference in manner provided by the Agricultural Holdings (England) Act, 1883, but the provisions of sects. 7, 10, and 23 of that Act relating to notices, appointment of referees and umpire and appeals shall not apply to this tenancy. Any questions relating to distress shall be decided by a Court of Summary Jurisdiction as provided by section 46 of that Act.

Clause 21.

14a. If any rent is in arrear for twenty-one days, and there is no sufficient distress upon the farm, or if the tenant becomes bankrupt, or compounds with his creditors, or executes a bill of sale, or an assignment of his effects, or suffers his effects to be taken in execution, the landlord may re-enter.

15a. The tenant will at once [*or* when required] execute an agreement embodying the terms of this agreement and all usual covenants and conditions.

APPENDIX II.

NOTICES TO QUIT, AND MISCELLANEOUS FORMS.

(2.)

Notice to quit under s. 33. Ss. 33, 61. p. x.

SIR, the day of 18

I hereby [as agent for A.B. and on his behalf] give you notice to quit [*or* that I intend to quit] and deliver up possession of the [*particulars of premises*] premises on the day of next, at the end of such year of your [my] tenancy as will expire next after one year [*or* one half year] from the service of this notice.

To *the tenant*, or *landlord*, or *his agent.* *Landlord* or *tenant.*

(3.)

the day of 18

Agreement that s. 33 shall not apply. S. 33. pp. xx, xxi, xxiii.

We [*landlord or his agent*] and [*tenant or his agent*] hereby agree that the provisions of sect. 33 of the Agricultural Holdings (England) Act, 1883 shall not apply to any contract of tenancy now existing [or which may hereafter exist] betweeen us in respect of [*particulars of premises*].

Landlord or *agent.*
Tenant or *agent.*

(4.)

SIR, the day of 18

Notice to quit part of premises under s. 41. S. 41. p. x. Clauses 28, 10a, pp. 57, 59.

In accordance with sect. 41 of the Agricultural Holdings (England) Act 1883, I hereby give you notice to quit and deliver up possession of [*particulars of premises such as*, 2 acres 1 rood being that part of a field called Lower Leys which is next to the field called Upper Leys, part of a farm now in your possession called] at the end of such year [*&c., as in No. 2 supra*], as I desire to resume possession thereof for the purpose of executing thereon the following inprovements namely [*set them out.*]

To *tenant.* *Landlord* or *agent.*

(5.)

SIR, the day of 18

Counter notice under s. 41 by tenant. S. 41. p. x.

I hereby give you notice that I accept your notice to me of the day of , 18 , requiring me to quit [*particulars of premises, following landlord's notice to quit*], as notice to quit the entire holding of which such premises form part, to take effect at the expiration of the now current year of my tenancy, and I intend to quit the same accordingly; and I give you notice [*here may follow notice of intention to claim compensation, under Form 11*].

To *landlord* or *agent.* *Tenant.*

APPENDIX III.

FORMS UNDER THE COMPENSATION CLAUSES.

(6.)

SIR, the day of 18

Consent to tenant executing improvement or to improvement already executed in the first part of the schedule. S. 3. p. xiii, xv, xx.

I give my consent to your executing the following improvement [*or*, I consent and approve of the improve-

ment executed by you in the year 18] namely [*here specify the improvement*] upon your holding the [*name of the farm*], subject to the following condition that is to say [*here insert conditions, such as limitation as to cost, compensation, carriage and quality of material, set off to landlord, and so on.*]

To *tenant.* *Landlord* or *agent.*

Clause in agreement dispensing with notice under S. 4. p. xv.

(7)

[See *supra*, Appendix L., clauses 9, 18, 11a.]

Notices by tenant of intention to drain holding. S. 4. p. xv.

(8)

SIR, the day of 18

I give you notice that I intend to drain the following parts of my holding the [*name of the farm*] namely [*set out the acreage and situation of the part to be drained, the quality of the soil, the size of the pipes and depth, and distance apart of drain. For instance*—"the lower part of the field called Big Meadow being about 4 acres 3 roods of clay soil to be drained with 2½ inch pipes; the drains to be eight yards apart, three feet six inches deep, and to be discharged into the ditch at the south boundary by a main drain laid with four inch pipe." *If a rough plan can be added to the notice it would be better.*]

To *landlord* or *agent.* *Tenant.*

Notice by landlord that he intends to undertake draining. S. 4. p. xv.

(9)

SIR, the day of 18

I give you notice that I intend myself to undertake the execution of any necessary drainage on that part of your holding mentioned in your notice to me of the day of , and I shall charge you with £5 per cent. per annum on the outlay incurred in executing the same [*or* such a sum as will repay me the outlay in 25 years with interest thereon at £3 per cent.]

To *tenant.* *Landlord.*

And see Appendix I., clauses 9 and 18.

Notice by tenant under s. 59 of intention to execute improvement. S. 59. p. xx.

(10)

SIR, the day of 18

I give you notice that I intend forthwith to execute the following improvements upon my holding the farm. [*Specify them with dates and particulars as in No. 11 infra.*]

To *landlord* or *agent.* *Tenant.*

(11)

SIR, the day of 18

I hereby give you notice that I intend to claim and do claim [NOTE.—*Apparently no further claim need be made but the parties go at once to reference*] the sum of £ as compensation in respect of the unexhausted value of the following improvements executed by me upon my holding the farm [*specify them with the dates, and "as far as possible" the particulars of the intended claim as for instance*—

Laying down the ten acres field (11 acres 3 roods) to permanent pasture in 1884.

Draining 4 acres 3 roods of Big Meadow in 1884.

Five tons of superphosphate applied to Upper Slench Field for turnips, in the year 18 ; *and so on.*]

To *landlord* or *agent.* *Tenant.*

Notice by tenant of his claim for compensation. S. 7. pp. xxii, xxviii.

(12)

SIR, the day of 18

I hereby give you notice that in consequence of your notice of the day of 18 [*No. 11 supra.*] I intend to claim and do claim the sum of £ as compensation in respect of the following matters connected with your contract of tenancy or your holding, namely:— [*specify any of the matters under S. 6. as,*

Arrears of rent, due March 25th, 18 .

Crosscropping of a field called Bank field, in the years 1883-4-5.

Damages for breach of covenant to repair.

The amount of a reduction of rent allowed to you in consideration, &c., *with dates and other particulars.*]

To *tenant.* *Landlord.*

Counter notice of claim for compensation by landlord. S. 6. pp. xxii, xxix.

(13)

AN AGREEMENT made the day of 18 between [*landlord*] and [*tenant*] [*description of parties*] in pursuance of sect. 8 of the Agricultural Holdings (England) Act, 1883. It is agreed as follows:—

1. The sum payable to the said [*tenant*] by the said [*landlord*] in respect of compensation for the unexhausted value of the improvements mentioned in the schedule hereto, made by the said [*tenant*] upon the farm shall be £ .

2. The sum payable to the said [*landlord*] by the said [*tenant*] in respect of compensation for [*arrears of rent, rates, taxes, tithe rent charge, waste, allowances, benefits, breaches of covenant, and so on*] shall be £ .

3. The sum of £ being the balance of the said sums of £ and £ shall be paid by the said [*landlord*] to

Agreement as to the amount of compensation. S. 8. pp. xxii, xxx. 12.

the said [*tenant*] [*state time and mode of payment, as for instance,* "before the 10th of December next, '*or*' by two instalments, the first on the .”]

In witness whereof the parties hereto have set their hands the day and year above written.

Landlord.

Witness G. H. *Tenant.*

[SCHEDULE.—*Here set out matters in respect of which compensation is claimed with the sums agreed to be paid in respect of each matter*].

(14)

Consent of landlord to incoming tenant paying compensation to outgoing tenant. S. 56. p. xxiv. Clauses 12, 6a, pp. 53, 59.

SIR, the day of 18

I hereby consent and agree that you shall as incoming tenant of the holding [*name of the farm*] pay to [*outgoing tenant*] as outgoing tenant of the same, the sum of £ for compensation due to him from me, under the provisions of the Agricultural Holdings (England) Act, 1883, in respect of the following improvements [*specify them, where an award has been made take the particulars from the award*] executed by him upon the holding.

To *incoming tenant.* *Landlord.*

(15)

Notice by tenant of intention to remove fixtures. S. 34.

SIR, the day of 18

I hereby give you notice that I intend at the end of one month from the service of this notice, to remove from my holding the [*name of the farm*] the following fixtures and buildings erected by me upon the same, namely, [*specify fixtures, as for instance,* "a wooden barn resting on a brick floor in the farm yard erected by me in the year 18 &c.”]

To *landlord.* *Tenant.*

(16)

Notice by landlord that he elects to purchase fixtures. S. 34.

SIR, the day of 18

I give you notice that I elect to purchase the [*specify fixtures or buildings shortly*] referred to in your notice of intended removal, dated the day of

To *tenant.* *Landlord.*

(17)

Appointment of a referee or a fresh referee. S. 9. p. xxviii.

the day of 18

We [*landlord* and *tenant*] hereby appoint A.B. of [*address and profession*] referee [*or* I (*landlord or tenant*) hereby appoint A.B. of &c. referee on my behalf [*if necessary*, in the place of C.D. who is *deceased, unwilling, or incapable of acting*] under the provisions of the Agricultural Holdings

(England) Act 1883, to decide the following matters in respect of a holding [*name and situation of farm*] namely [*here set out the matters in respect of which the reference is required, as for instance:*—"The amount of compensation to be paid by the said *landlord* to the said *tenant* in respect of the following improvements made by him upon the holding," *naming them, with dates and particulars, or* "the value of the following fixtures," *naming them, with date of erection and particulars,* "and the amount of compensation to be paid by the said *tenant* to the said *landlord* in respect of the following *acts of waste, &c.,*" *with dates and particulars.*]

Landlord and *tenant.*
Or *landlord* or *tenant.*

(18)

Notice of appointment of a referee. Notice requiring the other party to appoint a referee. S. 9. Sub-s. 5. p. xxxi.

SIR, the day of 18

I give you notice that I have appointed E.F. of &c., to act as referee on my behalf [*if appointed in place of another*, in the place of C.D. who is deceased, &c., *according to facts*] to assess compensation under the Agricultural Holdings (England) Act, 1883, in respect of the holding named [*&c., or* to assess the value of a steam engine, *or according to facts*] and [*if necessary*] I require you to appoint a referee in the same matter. And I further require that [*see form 24 infra.*]

S. 10.

To *landlord* or *tenant.* *Landlord* or *tenant.*

(19)

Notice to referee requiring him to act within seven days. S. 9. Sub-s. 2. p. xxxi.

SIR, the day of 18

I require you as referee [*on behalf of*] within seven days from the receipt of this notice to act in the reference between myself and A.B. in the matter of [the compensation claimed by me and by the said A.B. respectively in respect of a holding named, *&c., or* in the matter of the value of a steam engine, *&c., or according to facts; state shortly the name of the holding and what the claim was for.*]

To *referee.* *C. D.*

(20)

Consent to revocation of submission to reference. S. 12. p. xxxi.

SIR, the day of 18

I consent to you revoking your submission to reference and appointment in writing of C.D. as referee appointed to assess the compensation claimed by us respectively in respect of [*&c., as in form 18, or according to facts*].

To *Signed*

(21)

Revocation of submission to reference. S. 12. p. xxxi.

SIR, the day of 18

I hereby revoke my submission to reference and appointment in writing of you as referee in the matter of [*&c., as in form 19.*]

Signed

(22)

Extension of time by referees. S. 16. p. xxxiii.

the day of 18

We extend the time for making our award in the matters referred to us respecting the compensation claimed by C.D. and by [*&c., as in form 19.*] until the day of 18 . *Signed by both referees.*

(23)

Request to referee to appoint an umpire. S. 9. Sub-s. 9. p. xxxii.

SIR, the day of 18

I require you to appoint an umpire [in the place of C.D., deceased, *&c., as in form 17*] within seven days from the receipt of this notice to act in the reference between myself and A.B. in the matter of [*&c., as in form 19.*]

To *referee.* *Signed*

(24)

Notice requiring the appointment of umpire by Land Commissioners or by the County Court. S. 10. Sub-s. 1. p. xxxii.

SIR, the day of 18

I require that the umpire in the reference between myself and A.B. in the matter of [*&c., as in form 19*] shall be appointed by the Land Commissioners [*or* by the County Court.]

To *landlord or tenant.* *Signed*

(25)

Application to Land Commissioners to appoint an umpire. S. 10. Sub-s. 1. p. xxxii.

SIRS, the day of 18

I require you to appoint an umpire [in the place of C.D. deceased, *&c., as in form 17*] to act in a reference now pending between myself and A.B. in the matter of [*&c., as in form 19.*] *Signed*

(26)

Notice of dissent from appointment of umpire by the County Court. S. 10. Sub-s. 2. p. xxxii.

SIR, the day of 18

I give you notice, that I dissent from the appointment of the umpire by the County Court in the reference now pending between myself and A.B. in the matter of [*&c., as in form 19.*]

To *landlord or tenant.* *Signed*

(27)

the day of 18

We E.F. of [*address and occupation*] and G.H. of [*address and occupation*] referees on behalf of A.B. and C.D. respectively appointed to assess [*&c., as in form 18*], do hereby appoint L.M. umpire [in the place of C.D. *&c., as in form 17*], in respect of the matters so referred to us.

Signed by both referees.

Appointment of umpire or fresh umpire by referees. S. 9. Sub-s. 7. p. xxxi.

(28)

SIR, the day of 18

I [*or* we] hereby give you notice, that I [*or* we, *or* A.B. and C.D., referees duly appointed] cannot agree in making an award in the matter of [*&c., as in form 19*], and you as umpire can proceed to consider the matters referred to them.

Signed by either, or both parties, or either, or both referees.

To *umpire.*

Notice to umpire of the reference to him. S. 18. p. xxxiv.

(29)

SIR, the day of 18

[In the matter of the Agricultural Holdings (England) Act, 1883 and of a reference between yourself and A.B. relative to a holding named] I [we] shall consider [*or* shall continue to consider] the matters referred to me [us] at o'clock in the noon, on the day of 18 , at [*specify place*], and if either party be absent I [we] shall proceed with the same in their absence.

To *either party.* *Signed*

Notice to proceed with reference in absence of parties. S. 14. p. xxxiii.

(30)

SIR, the day of 18

[In the matter of the Agricultural Holdings (England) Act, 1883, and of a reference between yourself and A.B., relative to a holding named]. Take notice, that I [we] require you to produce at o'clock in the noon, on the day of 18 , at [*specify place*], for my [our] inspection the following documents, vouchers, and samples namely [*set them out as:*—all receipts, vouchers, letters, and other documents in your possession relating to the holding, *or* a letter from C.D. to E.F., dated the 7th day of February, 1884, *or* a memorandum of agreement, *&c., with date and parties, or* the plans and specifications for *the erection of buildings, or drainage, or* a receipt for, *or* a sample from

Notice to produce by referees or umpire. S. 13. p. xxxiii.

the bulk of 40 tons of Peruvian guano put by you upon the fields in the year 18 *and so on.*]

To *Referee, or referees, or umpire.*

(31.)

Form of award. Ss. 15, 17, 19, 20, 21. pp. xxxiv, xxxv.

To all to whom these presents shall come we A. B. of [*address and description*] and C. D. of [*or if made by a single referee or umpire*, I A. B. of] send greeting.

S. 7. Whereas E. F. of claims compensation from G. H. of under the provisions of the Agricultural Holdings (England) Act, 1883, in respect of the following matters and things, namely:—[*set out the matters referred to in the words of the appointment of the referee, form 17*].

S. 7. And whereas the said G. H. claims from the said E. F. like compensation in respect of the following matters and things, namely:—[set out items of counterclaim, as above] [*or*

S. 8. Whereas the said E. F. and G. H. are unable to agree as to the value of a [*fixture or building*] which the said E. F. has erected upon his holding the farm].

And whereas [*here set out all the circumstances relating to the appointment of a referee or umpire; if award made by single referee* the said E. F. and G. H. have jointly appointed me

S. 9, sub-s. (1.) sole referee, and have referred all the said matters and things to my decision and award, *if award made by two referees* the

S. 9, sub-s. (3.) said E. F. and G. H. have respectively appointed us the said A. B. and C. D. referees on their behalf, and have

Ss. 9-22. referred, *&c.; if award made by an umpire or by referees or umpire appointed by the County Court or Land Commissioners* or *in the place of a deceased or incapable referee or of one failing to act, or if time has been extended, &c., state the facts*]. Now these presents witness that we [I] the said do hereby order and award as follows:—

S. 19. The said E. F. is entitled to compensation from the said G. H. in the sums and in respect of the matters following [*set them out as for instance*:—

p. xxxiv. *(a), (b), (c).* The unexhausted value of a barn built by the said E. F., *giving particulars of size, material, and so on*, in August, 18 . £

The unexhausted value of the drainage done by the said E. F. in the Bank Field, *giving particulars*, in March, 18 . £

The unexhausted value of forty tons of lime laid upon the Home Field, containing acres, in February, 18 . £ —*and so on.*]

The said E. F. is not entitled to any compensation from

the said G. H. in respect of the matters following [*set them out as above*].

The said G. H. is entitled to compensation from the said E. F. in the sums and in respect of the matters following [*set them out, as for instance* :—

Seventeen acres of arable land called the Lower Slench and the Lark Leys left in foul condition from twitch and other noxious weeds contrary to covenant. £

chains of ditches, watercourses and drains, in the fields called, *naming them*, silted up and blocked. £

Dilapidations in respect of a cow-house and two barns left wholly out of repair, *particulars*, £ —*and so on.*]

[*Or* the value of the said engine erected by the said E. F. in October, 18 , is £ .] Value of fixture.

And we [I] further award that the value of the said improvements will be exhausted as follows :— p. xxxv. (*d*).

[*Set them out, as for instance*—The barn built by the said E. F. as aforesaid in the year 18 , &c., &c.]

And we [I] further award and direct that all costs of and attending this reference and award shall be paid by the said to the said . pp. xxxiv., xxxv (*c*) (*f*). Ss. 20, 21.

And we [I] further award that the said pay to the said the sum of £ being the balance due from him in respect of such claims for compensation and costs within six weeks from the date of this award, namely, on the day of 18 . p. xxxv. (*g*)

In witness whereof we [I] have set our [my] hand[s] this day of 18 .

Referee, referees or umpire.

APPENDIX IV.

(COUNTY COURT FORMS.)

(32)

In the County Court of shire, holden at

In the matter of the Agricultural Holdings (England) Act, 1883, and

In the matter of proceedings for a reference under the said Act between A.B. [*address and occupation*] and C.D. [*address and occupation*].

Let all parties concerned attend at my Chambers [*state where*] on the day of 18 at o'clock in the

Summons to County Court to appoint a referee or umpire. S. 9, sub-s. 6, S. 10. pp. xxxi., xxxii. (County Court Rules, 1875, Ord. xxxiv., r. 7, not less than 7 days from date except by consent.)

noon for the hearing of an application [*if before Registrar add* "by consent"] on the part of the said A.B. for an order to appoint a referee on behalf of the said C.D. [*or* for an order to appoint an umpire] in the above matters.

Dated this day of 18 *Judge or Registrar.*

This Summons was taken out by X.Y. of Solicitor for the applicant.

To [*name and address of the person to whom the summons is directed, or his Solicitor*].

(33)

Appointment [by endorsement on summons] of a referee or umpire. S. 9, sub-s. 6, S. 10, S. 11. p. xxxii.

[*See form 32 supra and order XXXIV r. 7, County Court Rules, 1875*].

I appoint E. F. referee on behalf of C. D. in the above matters, *or* I appoint E. F. umpire to decide the above matters in question between A. B. and C. D. [*state if by consent*].

The day of 18 *Judge or Registrar.*

(34)

Summons to County Court to appoint a guardian of party who is an infant or of unsound mind, or next friend of a married woman. Ss. 25, 26. p. xxviii. (See County Court Rules, 1875. Order XXXVIII.)

Heading as in No. 32, and proceed as in that form with the variations "for an order to appoint a guardian [*or* a next friend] for the purposes of the Act to A. B. an infant [*or* a person of unsound mind not so found, *or* a married woman].

Dated &c., *as in Form 32.* *Registrar.*

(35)

Summons to County Court to extend time for making award. S. 18. p. xxxiv.

Heading as in No. 32, and proceed as in that form with the variations, "an application on the part of E. F. [*the umpire or as the case may be*] for an order to enlarge the time limited for the said E. F. to make his award until the day of 18

Dated &c., *as in Form 32.* *Registrar.*

(36)

Heading as in Form 32.

Order by registrar of County Court (1) appointing guardian, or next friend, or (2) extending time for making award. Ss. 18, 25, 26. pp. xxviii., xxxiv.

Upon hearing the parties concerned [*or* the Solicitors for the parties concerned] I appoint E. F. guardian [*or* next friend] of the said C. D., *or*, I order that the time limited for the said E. F. to make his award be enlarged until the day of 18

Dated the day of 18 *Registrar.*

(37)

In the County Court of holden at
The Agricultural Holdings (England) Act, 1883.
Between *A. B.* Appellant,
and
C. D. Respondent.

Concise statement in writing of grounds of appeal. S. 23. p. xxxv.

I *A. B.* desire to appeal from the award made by E. F. dated the day of 18 sent herewith, and the grounds of my appeal are as follows, viz.:—

[Set them out, *e. g.*—

1. That the said award is invalid in that it does not finally decide the amount payable by the said C. D. to the said A. B. *or* in that it awards compensation in respect of a holding to which the Agricultural Holdings (England) Act does not apply *or* that the said award proceeds wholly [*or* as to that part thereof which awards compensation for, *&c.*] upon an improper application of [*or* wholly (*or* as to that part thereof, *&c.*, *as above*) omits to apply] the special provisions of the said Act relating to substituted agreements, to an agreement dated [*date*] and made between [*parties.*]

S. 54.

2. That the said E. F. did not make his award within due time.

3. That compensation was by the said award ordered to be paid by the said A. B. to the said C. D. in respect of the drainage of field, the value of which is now exhausted, *and so on.*]

Here insert the names in full, and address of the respondent and appellant, and the name and address of the appellant's solicitor.

Dated the day of 18 . *The appellant or his solicitor.*

(38)

(Heading as in form 37.)

Take notice, that you are required within eight days of the delivery of this notice to you, to file in court a statement, signed by you or your solicitor, in reply to the grounds of appeal sent herewith, and that your statement must disclose the following matters :—

Notice to a respondent to comply with provisions of Order xxxiv. r. of the County Court rules. S. 23. p. 18. (County Court Rules, Order xxxiv).

(1.) Whether you dispute the validity in law of all or any, and which of the grounds of objection to the award :

(2.) Whether you dispute the truth in fact of all or any and which of the grounds of appeal :

(3.) Whether you admit the validity in law and truth, in fact, of all or any, and which of the grounds of appeal :

(4.) Whether you pray that the case may be remitted to be reheard :

(5) Your name and address, and that of your solicitor, if the statement be delivered through a solicitor.

Dated this day of 18 . *Registrar of the Court.*

To the above-named respondent.

(38*b*.)

(Heading as in form 37.)

Statement of respondent on appeal. S 23 p. 18. (County Court Rules. Order xxxiv., r. 4.)

1. I dispute the validity in law of the first ground of objection to the award.

2. I dispute the truth in fact of the second ground of appeal.

3. I do not admit the validity in law and truth in fact, &c.

4. I do not pray that the case may be remitted to be reheard, *and so on.*

5. My name and address is , and the name of my solicitor is

The day of 18 *Signed*

To *the Registrar of the Court.*

(39.)

Order on appeal in County Court. S. 23. p. 18. (County Court Rules. Order xxxiv.)

In the County Court of holden at

In the matter of "The County Courts Acts," and

In the matter of "The Agricultural Holdings (England) Act, 1883," and

In the matter of an appeal by *A.B.*

the day of 18

Upon the hearing this day of an appeal by [*name and description of appellant*], against an award dated [*state date*], given under the hand of [*referee's name*], whereby [*state shortly the substance of the award*], and on reading the said award, and on hearing the said A.B. and C.D. the respondent.

It is ordered that [*state order, e.g.*, the said C.D. do, within fourteen days of the date of this order, pay to the said A.B. the sum of £ , and £ for costs, and in default of such payments, at the time aforesaid, the said A.B. may proceed to execution.]

(40.)

(Heading as in Form 32.)

Petition for charge of holding with moneys paid for compensation. Ss. 29-32. p. 36.

The Humble Petition of the said A.B.

Sheweth—

1. *Where landlord is petitioner*—Your petitioner is entitled [for his life, *&c., or state whether as trustee of settlement, charity trustee, mortgagee in possession, incumbent, owner in*

fee, or as the case may be] to the rents and profits of a certain Agricultural Holding called situate at in the county of and containing acres, or thereabouts [*state whether agricultural or pastoral, &c.*], as landlord thereof, and C.D. occupied the same up to the day of last past, as tenant thereof, from year to year [*or as the case may be.*]

Where tenant is petitioner.—Your petitioner occupied a certain agricultural holding [*&c., leaving out the words* "as landlord thereof, and C.D. occupied the same."] C.D. is the landlord of the said holding.

2. On [the said C.D.] quitting the said holding, at the determination of his tenancy, the said C.D. [your petitioner] claimed to receive from your petitioner [the said C.D.] the sum of £ in respect of [*state claim.*]

3. Your petitioner [the said C.D.] claimed to receive from the said C.D. [your petitioner] the sum of £ in respect of [*state counterclaim.*]

4. All proper notices were given and proceedings taken under the provisions of the Agricultural Holdings (England) Act, 1883, and E.F. was duly appointed sole referee [*or state agreement between parties or as the case may be*] to decide and award upon the matters in difference between your petitioner and the said C.D.

5. The said E.F., by his award given under his hand the day of 18 , awarded and ordered [*set out so much of the award as is necessary.*]

6. *Where landlord is petitioner.*—In accordance with the said award your petitioner has paid to the said C.D., the sum of £ for compensation [or for balance of compensation *or* for costs *or otherwise.*]

Where trustee is petitioner omit this clause. Where tenant is petitioner and landlord is trustee omit the clause and insert the following:—The said C.D. has neglected and failed to pay your petitioner the amount due to him under the said award [*or order or agreement.*]

Your petitioner therefore prays:—

1. *Where landlord is petitioner.*—For an order that the said holding [specify premises] do stand charged with the repayment to your petitioner his executors administrators and assigns of the sum of £ paid by him to the said C.D. as aforesaid, in such instalments and with such interest and with such power of sale and other directions for giving effect to the charge as the court may think fit.

Where trustee is petitioner omit the words—paid

by him to the said C.D. as aforesaid. *Where tenant is petitioner omit these words and insert after the words* 'the sum of £ '—and of all costs properly incurred in obtaining the charge, or in raising the amount due thereunder.

2. Such further or other relief as the nature of the case may require.

NOTE.—It is intended that this petition shall be served on [*necessary parties.*]

APPENDIX V.

(FORMS UNDER DISTRESS CLAUSES.)

NOTE.—*These forms, with the exception of forms 41-45 infra, will be the forms applicable to the recovery of a civil debt under the Summary Jurisdiction Act, 1879.*

(41)

Request to remove distrained goods. S. 50. p. xxxviii.

SIR, the day of 18

I request you to remove the goods and chattels which you have distrained and impounded for rent in respect of the holding the [*specify premises*] to [*state where*] or to a public auction room for the purpose of the sale thereof, under the said distress.

To *the broker, auctioneer, or person making distress.* *Signed.*

(42)

Request to keep distrained goods for fifteen days. S. 51. p. xxxviii.

SIR, the day of 18

I hereby request and authorize you to keep the goods and chattels which you have distrained and impounded for rent in respect of the holding the [*specify premises*] for a period of not more than 15 days from the making of the said distress [*if convenient, combine this with form No. 40 by continuing* "and to remove the same to" *&c., as in that form*] and I request and authorize you not to sell the same until the expiration of such time.

To *&c., as in form 41.* *Signed.*

(43)

Request or consent to sell goods distrained before the expiration of fifteen days. S. 51. p. xxxviii.

SIR, the day of 18

I hereby request you to sell the goods and chattels which you have distrained and impounded for rent in respect of the holding the [*specify premises*] forthwith [*or* on

the day of] without waiting for the expiration of the period of 15 days, during which I requested you to keep and not to sell the same.

To *&c., as in form 41.* *Signed.*

(44)

In the [*county of* . *Petty Sessional Division of*].
Before the Court of Summary Jurisdiction sitting at .
The day of 18 .

Order for the restoration of a chattel, &c. S. 46. p. xxxix.

A.B. having made a complaint that *C.D.* (hereinafter called the defendant) on the day of at [*state the facts entitling the complainant to the order*], and the defendant having appeared [*or* the defendant not having appeared, but proof having been given that the defendant was duly summoned to appear], and on hearing the matter of the complaint, it is this day adjudged and ordered by this Court that the defendant do [*state the matter required to be done with conditions as to time or mode of action imposed by the Court.*]

(Summ. Jurisd. Act, 1879, s. 34.)

And if on a copy of a minute of this order being served on the defendant, either personally or by leaving it for him at his last or usual abode, he neglects or refuses to obey this order, then it is adjudged that the defendant for such his disobedience be imprisoned in Her Majesty's prison at for the space of [*not exceeding two months*] or until he has remedied his default.

[*Or* forfeit and pay to the Clerk of this Court (*or other the person to whom payment is to be made*) at the sum of (*amount of fine not exceeding £1 for every day, and not exceeding in the aggregate £20*) for every day in which he shall be in default in obeying the said order.]

And it is also adjudged and ordered that the defendant pay to the complainant the sum of for costs forthwith [*or* on the day of *or* by instalments, &c.].

And if default is made in payment according to this adjudication and order, it is ordered that the sum due thereunder be levied by distress and sale of the defendant's goods.

(*Signed*)
of Her Majesty's Justices of the Peace (L 8)
for the [county] of

(45)

Notice of appeal to Quarter Sessions against order of Justices under s. 46.
S. 46.
p. xl.

To A.B. of [*address and description.*]

I, C.D. of [*address and description*] hereby give you notice that I intend to appeal to the next general [*or* quarter] sessions of the peace to be holden at in and for the [county *or* borough] of against an order made upon or about the day of , by G.H. and L.M. of Her Majesty's justices of the peace for the said [county *or* borough] of whereby it was ordered [*set out order*]. And I give you notice that my grounds of appeal are [*set out grounds for appeal.*]

The day of (*Signed.*)

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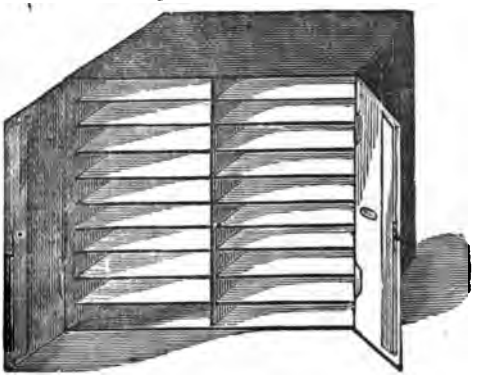

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